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STATE OF WASHINGTON
INSURANCE COMMISSION
OIC INFORMATIONAL HEARING

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IN RE: "HOLOCAUST VICTIMS)
INSURANCE RELIEF ACT OF)
1999.")
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TRANSCRIPT OF PROCEEDINGS

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HELD BEFORE
DEBORAH SENN, COMMISSIONER
JEFFREY COOPERSMITH, CHIEF COUNSEL
MARVIN STERN, RESEARCH SPECIALIST &
COMMUNITY LIASON
DANNY KADDEN, RESEARCH SPECIALIST &
COMMUNITY LIASON

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May 1, 2000

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1:00 P.M.

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900 4th Avenue, 24th Floor

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Seattle, WA 98164

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Lori J. Walters, CSR Court Reporter

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A P P E A R A N C E S

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Witness: HERMINE BERNER and
JUDY TOWNSEND

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Witness: MARTIN BIRN

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Witness: FRED JAFFE

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General Manager PROFESSOR DR. ERIC FISCHER
of the Dutch Assoc.
of Insurers:

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Senior Vice Pres. ROGER SINGER
& General Counsel,
CGU Ins.

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Assoc. General PATRICK HUGHES
Counsel & Asst.
Sec., American
Re-Insurance Co.

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1 COMMISSIONER SENN: I am Commissioner
2 Deborah Senn and this is my chief counsel,
3 Jeffrey Coopersmith. Also from our division that
4 works on the Holocaust issue, Holocaust insurance
5 claims issue, are Marvin Stern and Danny Kadden.

6 Thank you all for coming today. This
7 hearing is authorized by the Washington State
8 Holocaust Victims Insurance Relief Act, passed
9 unanimously by the state legislature and signed
10 into law by Governor Locke a year ago. The Act

11 seeks resolution of insurance claims that remain
12 unpaid over half a century. In brief, the law
13 requires prompt disclosure of Holocaust era
14 policy information, including the names of policy
15 holders and prompt payment of their claims.

16 The purpose of our hearing today is to
17 investigate progress made by the companies that
18 fall under the requirements of the Act. The
19 measure of success of this process is simple; are
20 the claims of survivors who are policy holders or
21 heirs being paid?

22 For those survivors or heirs who did know
23 that they have a claim, there are lists of policy
24 holders being published in the public domain and
25 they can find out if their family does have a

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1 claim, as was intended and set forth in the
2 legislation.

3 I believe everyone in this room understands
4 the relationship between insured and insurer is
5 one of trust. The insureds gives a company money
6 year after year and they expect the terms of a
7 policy to be carried out, even if the policy
8 holder is deceased, and I might add with a life
9 insurance policy, particularly when the policy
10 holder is deceased. Time and distance cannot
11 erase that obligation.

12 As a state regulator I am obligated to make
13 sure the insurance companies licensed to do
14 business in the state of Washington and their
15 parent companies or affiliates fulfill their
16 obligations to policy holders, beneficiaries or
17 the rightful heirs.

18 The Office of the Insurance Commissioner is
19 conducting this hearing to clarify issues so that
20 we can work with insurance carriers to resolve
21 this matter with mutual cooperation. It should
22 be noted that the Office of the Insurance
23 Commissioner has not yet made any determination
24 of noncompliance by any company.

25 I will delegate the authority to conduct

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1 this hearing to my chief counsel, Deputy
2 Insurance Commissioner Jeffrey Coopersmith.

3 And before we do that, I want to say finally
4 that time is of the essence, of course, on this
5 issue. The people who are most directly affected
6 by this are elderly. Never before has the
7 statement "justice delayed is justice denied"
8 been more true. As you know, it's been over 60
9 years since many of these claims arose. It is
10 time for the claimants to receive what is
11 rightfully theirs and that is precisely what the
12 statute and the law envisions.

13 We are particularly reminded of the moral
14 urgency of this issue today because this is the
15 eve of the annual worldwide observance of
16 Holocaust Remembrance Day.

17 Many of those whose insurance assets we are
18 seeking to recover perished in ghettos, transport
19 trains and gas chambers. We remember the names
20 and the faces, the hopes and the dreams that they
21 had before the Holocaust took their lives. We
22 are holding this hearing to discharge the
23 obligation of the law which seeks justice for
24 those who died and those who survived and for
25 those who came after.

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1 In the state of Washington, the legislature
2 is on record unanimously in support of this
3 mission.

4 Let me say that we expect, let me talk a
5 little bit about logistics. I have another
6 engagement so I won't be here for the entire
7 hearing. We expect that it will last until about
8 3:30 or 4:00. We had one other hearing similar
9 to this in January that went until about 5:00.

10 I do know that a number of representatives
11 from the Dutch Insurance Association are here and
12 they have to catch a plane. Last time we also
13 had survivors who came and we never, because we
14 were going through the companies and we had so
15 much information to go through, we didn't give a
16 chance until the end for the survivors or the
17 individual citizens who wanted to testify to
18 testify, but because we have a little bit of a
19 lighter load today we wanted to make sure that we
20 give an opportunity to any survivors or families
21 that have come to testify to have an opportunity
22 to do so. So we will call on them first.

23 And then as I said, as the companies'
24 information gets underway at some point I will
25 excuse myself but my staff is obviously here to

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1 do the job of taking the testimony.

2 So let me invite Judy Townsend to come
3 forward. And we are asking people to try to hold
4 it to five minutes or so. And this is your
5 mother?

6 MS. TOWNSEND: Yes, my mother.

7 COMMISSIONER SENN: Welcome and thank

8 you for coming. Why don't you state your name
9 for the record.

10 MS. BERNER: Hermine Berner.

11 COMMISSIONER SENN: We will go over the
12 names and information. Just keep going.
13 And give your name, please.

14 MS. TOWNSEND: I am Judy Townsend, her
15 daughter.

16 COMMISSIONER SENN: Go ahead.

17 MS. BERNER: The only thing I remember,
18 that we had a fire one time and the insurance
19 company, they replaced everything and they
20 rebuilt, that's the only thing I remember.
21 Because my father was talking about it to my mom,
22 how they want to build it and what they want to
23 do about it.

24 And I know that he had life insurance also
25 because we had a lot of property and my father
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1 was in the timber business and he traveled a lot
2 like to Austria, to Hungary because of his
3 business and some just like relatives, we had
4 relatives all over Europe.

5 But in those years the parents really didn't
6 tell their children like today, and my children
7 know everything about myself and my husband. But
8 somehow I don't know, I don't know why, because
9 my father was very intelligent and very well
10 educated, traveled all over, and he believed that
11 girls should have as good of an education as
12 boys, so all my sisters had a college education.
13 And most of them are unfortunately not living
14 anymore. I am the baby in the family only
15 living.

16 COMMISSIONER SENN: What town and
17 country were you in?
18 MS. BERNER: Munkacs.
19 MS. TOWNSEND: Czechoslovakia.
20 MS. BERNER: It was Czechoslovakia.
21 And then we belonged to Hungary and we belonged
22 to Russia, every year we belonged to some other
23 government. We were so mixed up. I think in
24 five years we belonged to four different
25 governments.

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1 Really when they started to take the Jews
2 from Munkacs it was under Hungarian, we were
3 occupied by Hungary. Most of the people were
4 Russian not surrounded around the city Munkasc.
5 They gave that part, they gave it to the
6 Russians, Czechoslovakia didn't get it, not
7 Hungary either. It was a small part of
8 Czechoslovakia.

9 COMMISSIONER SENN: How far from Prague
10 was it?

11 MS. BERNER: It was further to Budapest
12 than to Prague. Munkasc is, well, between the
13 Russian, between the border Russian and Hungarian
14 border. It's a small part but I would say 80
15 percent of the people were Russian peasants.

16 COMMISSIONER SENN: Have we gone over
17 the names of the companies that were doing
18 business in Czechoslovakia?

19 MS. BERNER: Yes, because I saw in one
20 of the literature where the bank of Munkasc, the
21 name was -- I think it was the Danube, Duno was
22 the largest bank in Munkasc. It had a lot of
23 business and a lot of activities and a lot of

24 fine schools. I think they had about five or six
25 different languages. It was the only city that
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1 had a Hebrew gymnasium.

2 COMMISSIONER SENN: Judy, you better

3 ...

4 MS. TOWNSEND: I guess the only thing
5 to add is that my mom lost over 100 members of
6 her family and that probably a lot of those
7 people did have life insurance policies, her
8 sister and her husband, several other families.
9 So those are people that don't have anybody to
10 speak for them, all of those people.

11 COMMISSIONER SENN: Have we ever done
12 any research on Czechoslovakia? I have some
13 ideas, I need to talk to my staff.

14 You don't know the names of the companies,
15 you just remember the policies?

16 MS. BERNER: No, I don't know. When
17 the war broke out I was only 17 years old.

18 COMMISSIONER SENN: This is a good
19 reason why we need the lists because then we can
20 figure out who was doing business there and if
21 the list was published we could see whose names
22 were on that. Do you have any records at all?

23 MS. BERNER: No, I don't. Matter of
24 fact, I was going home to my father on the train
25 in Budapest, the minute they looked at the papers

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1 and the name knew right away the first day Hitler
2 walked into Budapest. And they pick up the
3 prison and from prison and then whatever -- they
4 he stayed with a customer and then he was sent to
5 a Jewish hospital, there was only Jewish hospital

6 in Budapest and he passed away there. As a
7 matter of fact, I found out in Auschwitz that he
8 was living and he did not go to Auschwitz, but
9 the rest of my family, my sisters, my nieces, my
10 uncles, everybody, everybody, went to Auschwitz.
11 Unfortunately.

12 COMMISSIONER SENN: We'll keep working
13 on it and that's why we are here today and we
14 thank you very much for coming.

15 MS. BERNER: As a matter of fact, I had
16 one sister who was in the wholesale business and
17 she had a little boy and two little girls,
18 twins. When Mengele -- she was a victim and I
19 think she did the right thing because they were
20 doing terrible things because I worked with
21 Mengele.

22 COMMISSIONER SENN: Thank you so much.
23 We are going to keep working on it for you.

24 MS. BERNER: Thank you.

25 COMMISSIONER SENN: They never resolved

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1 whether they found him, did they?

2 MS. BERNER: They think that they found
3 him. But who knows.

4 COMMISSIONER SENN: I know they looked
5 a long time for him.

6 MS. BERNER: And he had a wife and a
7 son but there were so many Mengeles all over the
8 world. He was a good looking guy.

9 COMMISSIONER SENN: Martin Birn.

10 MR. BIRN: My name is Martin Birn. I
11 am a Holocaust survivor. My father died in
12 Auschwitz and I was an only child. My mother
13 died in 1934 really, so as an only child it's

14 really -- and my father was a middle class
15 merchant, an accountant, so it would be in
16 Germany, he lived in Germany. It would be
17 unthinkable of him not to have a life insurance
18 on his life to take care of me if anything should
19 happen to him.

20 We have an unusual name, B I R N. It has
21 been like that for a number of generations, there
22 are not that many. So I am sure that somewhere
23 probably is a life insurance and anything I would
24 get from that would not change my lifestyle. I
25 am fortunate in being well off but I'm sure there

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1 are many like me that could certainly use the
2 money and therefore I would like to see that
3 justice is done in that regard.

4 COMMISSIONER SENN: What part of
5 Germany?

6 MR. BIRN: I was born in Bavaria and
7 our ancestral village there are four generations
8 in a little village called Essenfeld
9 which is near Wurzburg, about six kilometers
10 outside of Wurzburg, and I have a family tree
11 which goes back to my great-great grandfather,
12 and my father also after lived there from 1934
13 until he was taken away.

14 COMMISSIONER SENN: You assume they had
15 insurance because they would have bought it, but
16 do any companies ring a bell for you?

17 MR. BIRN: No, I was 14 when I came to
18 the United States in 1940 and this was not the
19 sort of subject between father and son, financial
20 matters or anything like that.

21 The things that I know about is I brought
22 with me a couple silver spoons from our family,
23 silver, and a couple other minor souvenirs and
24 that's it. And I happen to know the history of
25 some of that but as far as any lifestyle, any

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1 financial arrangement or anything like that, I am
2 not, I was not aware of. I did not live with my
3 father, I lived with my uncle and aunt in
4 Stuttgart, so our visits were for summer
5 vacations and things like that, and I didn't live
6 with him on a daily basis so that would have also
7 precluded or limited some of the things like
8 that.

9 COMMISSIONER SENN: Do you use the
10 internet?

11 MR. BIRN: Yes. I am computer
12 literate. I teach computer literacy at senior
13 centers.

14 COMMISSIONER SENN: So are you involved
15 at all in Jewish genealogy?

16 MR. BIRN: Yes, I do.

17 COMMISSIONER SENN: You know, there is
18 online there are business directories from
19 different communities. Have you ever tried to go
20 online and look at a business directory?

21 MR. BIRN: No, I have not.

22 COMMISSIONER SENN: Have you done
23 that?

24 MR. KADDEN: Sometimes.

25 COMMISSIONER SENN: The business

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1 directories, I have seen business directories of
2 insurance agents and who they represented, I am

3 just wondering if you could try to make that
4 internet search.

5 MR. BIRN: I am familiar with the
6 publication of the organization but that is an
7 interesting thought. Since our family lived in a
8 small village, there was only two or three other
9 families that lived there a long time and I don't
10 know how big the Jewish community was there but
11 there were several hundred people, it would be an
12 interesting approach.

13 COMMISSIONER SENN: Have you ever been
14 back?

15 MR. BIRN: Yes, I have been back three
16 times.

17 COMMISSIONER SENN: Hermine and Judy,
18 have you ever gone back?

19 MS. TOWNSEND: I have been to
20 Czechoslovakia.

21 MS. BERNER: After the war I went home
22 and I knew I would never go back, I never wanted
23 to go back again.

24 MR. BIRN: Every time I went back it
25 became more of a psychological, more difficult, I
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1 decided it's too much of an emotional drain to go
2 back again. Germany is not on our travel list.

3 COMMISSIONER SENN: Thank you. Jeffrey
4 has a question.

5 MR. COOPERSMITH: Mr. Birn, you
6 mentioned that your father was an accountant.

7 MR. BIRN: Yes.

8 MR. COOPERSMITH: And as an accountant
9 his job was to maintain records, right?

10 MR. BIRN: Yes, that would be the

11 normal job of an accountant, that's correct.

12 MR. COOPERSMITH: So did he maintain
13 such records for his insurance policies?

14 MR. BIRN: I would have no idea. When
15 I left he was working a short time for others,
16 the Jewish concern because he could not be able
17 to get a job with a bank or non-Jewish
18 organization. I have no idea of his record
19 keeping. I brought with me my most precious
20 possession is my photo album, family photo album,
21 and that's about it.

22 MR. COOPERSMITH: Do you happen to know
23 what happened to his documentation and your
24 father's personal effects?

25 MR. BIRN: No.

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1 COMMISSIONER SENN: How did you have
2 the photo album?

3 MR. BIRN: I brought it with me when I
4 came over.

5 MR. COOPERSMITH: Do you know if your
6 father had any other type of insurance aside from
7 life insurance?

8 MR. BIRN: No. After the death of my
9 mother, she had a grocery store. After she died
10 in '34 I have no idea what happened to any of the
11 records or any furniture or any of his
12 possessions. So it's a very good question but I
13 have never -- I don't even remember anything
14 because, as I say, I lived several hundred miles
15 away. I have never been to his home in Rigenberg
16 where he worked.

17 MR. COOPERSMITH: One last question.

18 Did your father work as an accountant for a firm,
19 a company or for himself or for others?

20 MR. BIRN: He, it would have been at
21 first up until 1934 he was partner with my mother
22 in the business in the millinery business, and
23 after that he worked for an employer. He did not
24 work for himself, he would have been employed as
25 an accountant bookkeeper for a company, but I

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1 have no idea of.

2 MR. COOPERSMITH: Thank you.

3 COMMISSIONER SENN: Thank you. We just
4 have some ideas of more research we can do, so
5 we'll be in touch with you about it. That is all
6 the survivors that were signed up to testify.
7 Anybody else?

8 Sorry, Mr. Jaffe.

9 MR. JAFFE: I didn't think I would
10 testify but I think I will.

11 COMMISSIONER SENN: I know the Dutch
12 have a plane, they have to leave at 3:10, is that
13 correct? Your plane is at 3:10. All right,
14 let's make it just a few minutes.

15 MR. JAFFE: I am Fred Jaffe, I live in
16 Bellevue, Washington. I, too, am from Germany.
17 I was lucky to get out in '39 and was able to get
18 to the United States. I lost my father,
19 grandmother and a whole lot of cousins and
20 others. I come from the city of Stettin, which is
21 now Polish as of 1945, it's north of Berlin. It
22 was the province of Silesia. My father and
23 mother were both physicians and when I left in
24 '39 I was 15. I don't know if they ever had any

25 insurance at all. It would seem reasonable for

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1 middle class people to have some insurance but I
2 have no recollection at all.

3 COMMISSIONER SENN: What did your
4 father do?

5 MR. JAFFE: They were both physicians,
6 my father and mother, practicing, they had their
7 own practice. He was a urologist and she was a
8 pediatrician. We were lucky to get out. My
9 father didn't make it, he died in a prison in
10 Germany. We were notified in 1942 through the
11 international organization that he had died.
12 When I came to New York I had one suitcase, a
13 bicycle and a cello, those were my possessions.

14 COMMISSIONER SENN: What year was
15 that?

16 MR. JAFFE: In June of '39. That's
17 about all that I can tell you.

18 COMMISSIONER SENN: Maybe we could talk
19 to you afterwards and see if we can jar your
20 recollection and come up with some ways to do
21 some research. Thank you for coming.

22 Then let me call, is it Brian, are you going
23 to come up?

24 MR. KREGER: Yes.

25 MS. SENN: I'm going to step aside, I

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1 will be leaving.

2 MR. KREGER: Thank you, Commissioner
3 Senn. My name is Brian Kreger, I am here as an
4 observer for ING and AEGON companies. I would

5 like to introduce Eric Fischer who is CEO and
6 Executive Director of the Dutch Association of
7 Insurers, and the General Secretary of the Dutch
8 Association for Insurers and they are the
9 official spokespersons for AEGON, ING, Fortis and
10 the remainder of their association companies.

11 MR. COOPERSMITH: Welcome, thank you so
12 much for participating in this afternoon's
13 hearing. As the Commissioner mentioned, the
14 purpose of this hearing is to review the progress
15 that companies have made with Washington State's
16 Holocaust law known as the Holocaust Victims
17 Insurance Relief Act, RSCW 48.104. We will first
18 review what progress has been made and then see
19 what steps, if any, need to be taken to bring the
20 companies into full compliance.

21 Earlier this year the Commissioner convened
22 a hearing to make just such an assessment with
23 the companies that are participating in the
24 International Commission process and she now
25 wishes to turn to those companies which are not

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1 participating in the International Commission
2 process. It is our understanding that several of
3 the Dutch companies have been cooperating in this
4 process and could you identify yourselves,
5 please, for the record and state and spell your
6 names and state what position you have with the
7 company.

8 MR. FISCHER: My name is Eric Fischer,
9 I am the CEO of the Dutch Association of
10 Insurers. It should be spelled F I S C H E R.
11 And I am a professor at the University of

12 Amsterdam.

13 MR. TERWISSCHA: My name is William
14 Terwisscha, and that's spelled T E R W I S S C H
15 A. And I am a project manager involved in the
16 Holocaust re-insurance issue for three years.

17 MR. COOPERSMITH: We are going to
18 dispense with any formal written remarks and
19 proceed directly to questions of the company or
20 representatives. So Doctor Fischer, are you here
21 to testify on behalf of -- which companies are
22 you here to testify on behalf of?

23 MR. FISCHER: I represent all the
24 companies who are working in Holland, so not only
25 the companies who have an interest in the United

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1 States but also the companies working in Holland,
2 so that means the Dutch companies and also the
3 foreign companies working in Holland.

4 MR. COOPERSMITH: For the record, could
5 you recite which Dutch companies those are?

6 MR. FISCHER: Well, there are about
7 three hundred, sir.

8 MR. COOPERSMITH: Among them are AEGON,
9 Aegon is spelled A E G O N, as well as ING
10 Financial Services, is that correct, and Fortis?

11 MR. FISCHER: That's correct.

12 MR. COOPERSMITH: And Mr. Terwisscha,
13 which companies are you representing today?

14 MR. TERWISSCHA: I am also at the Dutch
15 Association and so I am representing all the
16 Dutch insurance companies.

17 MR. COOPERSMITH: Let us begin in the
18 beginning and tell us what role the Association

19 has played in attempting to bring compliance with
20 Washington's Holocaust law.

21 MR. FISCHER: The problem is we started
22 much earlier, so in the beginning of 1997 when we
23 heard about the problems in Switzerland, we had
24 taken up the task of finding out what has
25 happened in Holland. There were hardly any

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1 people who could tell us, there was no literature
2 about it, but we know that if this was a problem
3 in Switzerland, this problem would come up in
4 Europe as well.

5 So the first thing we did was to take up
6 contact with Central Jewish Board in Holland and
7 talk to them and ask them if we couldn't do this
8 research ourselves. So beginning onwards we have
9 been working with the Central Jewish Board in
10 Holland to find out and to reconstruct history
11 and what has been going on as far as insurance is
12 concerned. So as an Association of Dutch
13 Insurers we only looked into insurance questions
14 and no other questions.

15 This resulted after two years that we had an
16 agreement in which it was clear on the basis of
17 our research that about 98 percent of the insured
18 value, which was lifted by the Germans during the
19 war could be given back to the beneficiaries or
20 the people who survived the Holocaust. And let's
21 say between 1950 and 1960 there was about two
22 percent of the insured value which we couldn't
23 find the people or our predecessors couldn't find
24 the people, and according to Dutch civil law this
25 two percent had to be rendered to the state. In

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1 1954, 1955, the surrender value of the two
2 percent Dutch was given to the state.

3 What we have done together with the Central
4 Jewish Board is make an agreement that was signed
5 on the 9th of November of last year, in which we
6 tried to figure out how much the two percent
7 would have been, that's in terms of 1999. So we
8 figured out a multiplier of 22 to cover the
9 difference in worth between 1942 and 1999. This
10 amount became a number of 50 million Dutch
11 guilders which is divided into three parts.

12 20 million is in a foundation, SJOA
13 Foundation, in which all people wherever in the
14 world can put their individual claims and we also
15 made a reachout program, not only by internet but
16 also by advertisement, so that people can find
17 themselves or their family when they were
18 beneficiaries or heirs, they can file a claim or
19 ask for information about policies which were not
20 claimed after the war.

21 There is a humanitarian fund of 25 million
22 guilders in which it's not clear what the Dutch
23 community is using it for. They have an inquiry
24 not only in Holland but also among the Dutch Jews
25 of the world, especially Israel, to find out what

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1 destination this money will get.

2 There is another 5 million which will be
3 spent on a Dutch research project which will
4 reconstruct or try to reconstruct the Jewish
5 community just before the war. So that is more

6 or less in a nutshell the history since the
7 beginning of '97.

8 MR. COOPERSMITH: We appreciate that
9 overview. To your knowledge, are there any Dutch
10 insurers which are not participating in the Dutch
11 Insurance Association investigations of Holocaust
12 insurance assets?

13 MR. FISCHER: All the Dutch insurers
14 are in this process, also the foreign companies
15 who are working in Holland, but we didn't have
16 access to the files of six Jewish burial archives
17 so they are not in it. But all the other
18 companies have made their contributions to this
19 fund.

20 MR. COOPERSMITH: And what would your
21 estimate be of the market share of the Dutch
22 insurance market, what does that represent of the
23 participating companies?

24 MR. FISCHER: I didn't get your
25 question.

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1 MR. COOPERSMITH: You said that all but
2 a very few of the insurers participating, Dutch
3 insurers are participating in this process, can
4 you approximate what amount of market share the
5 participating companies represent?

6 MR. FISCHER: It's almost 100 percent.
7 I think the Jewish burial societies, well, it
8 must be a few percent but I think apart from that
9 it's 100 percent.

10 MR. TERWISSCHA: The private sector,
11 the private insurance sector is 100 percent.
12 That's what we know from the transfer of

13 unclaimed policies to the state. And all those
14 companies participated or their predecessors are
15 participating in the agreement with the Dutch
16 Jewish company.

17 MR. COOPERSMITH: Can you tell us why
18 the Dutch insurers decided to proceed in a
19 collaborative joint plan?

20 MR. FISCHER: It's a tradition, if
21 there are things to be solved, either problems or
22 possibilities, we have a very strong association
23 and they asked us to have this agreement with the
24 Dutch Jewish Board which is I think much easier
25 because otherwise they have to deal with a lot of

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1 different insurance societies.

2 MR. COOPERSMITH: And could you tell
3 us, elaborate further on your relationship with
4 the SJOA Foundation, first what is your
5 understanding of what the SJOA Foundation is and
6 their effects on the chapter of the foundation.

7 MR. FISCHER: Yes, the Dutch SJOA
8 Foundation, it must have been founded the end of
9 the year or the beginning of this year when we
10 had this agreement. It has a board of three
11 members, one is appointed by the Dutch Insurance
12 Association, one is appointed by the Central
13 Jewish Board in Holland, one of the members of
14 the Central Jewish Board is also a member of the
15 SJOA Foundation, and together they elected the
16 third member of this foundation.

17 In fact, it's three judges or former judges
18 who are being in this, forming the board of this
19 foundation, and this foundation is there to

20 answer all the questions from wherever in the
21 world about Dutch life insurance during and after
22 the war.

23 And not only that but if there is a claim,
24 they will handle this claim according to the
25 standards which are very relaxed standards, they

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1 are more or less in conformity with each other.

2 So up till now I think there are a few
3 hundred requests for information, not in the
4 least because our outreach program started in
5 January so a lot of questions are coming from
6 Israel, from the United States. We had 32
7 questions about claims of which within two months
8 we could find 19 of them, so there was a good
9 result but it is only working now for four or
10 five months but it is working well, we don't have
11 any complaints.

12 MR. COOPERSMITH: Is it your testimony
13 that if a Washington State survivor or any other
14 survivor or heir came forward and inquired about
15 a possible Dutch insurance claim that that
16 inquiry would be either handled and reviewed by
17 the SJOA Foundation in Holland?

18 MR. FISCHER: Yes.

19 MR. COOPERSMITH: Would it be handled
20 or reviewed or both?

21 MR. FISCHER: Both. The SJOA
22 Foundation independently researches but also the
23 payment is independent of the companies and we
24 try in discussions with the Dutch Central Jewish
25 Board not to make the companies themselves

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1 parties in decision-making but to make it
2 independent.

3 MR. COOPERSMITH: So that way the
4 decision is completely independent of the
5 insurance company, is that correct?

6 MR. FISCHER: That's correct.

7 MR. COOPERSMITH: Did the insurance
8 companies have any role in the development of
9 these standards to which you refer?

10 MR. FISCHER: The insurance companies
11 themselves didn't but we as a representative of
12 the Dutch insurers did that together with the
13 Central Jewish Board.

14 MR. COOPERSMITH: Could you elaborate
15 on what the Central Jewish Board is?

16 MR. FISCHER: The Central Jewish Board
17 is the most representative organization of Jews
18 in Holland, they are very well organized. It's
19 not only our opinion that they are the
20 representative organization for the Jews in
21 Holland but it's also a court decision that they
22 must be considered to be the most representative
23 organization of Jews in Holland.

24 MR. COOPERSMITH: And has the Central
25 Jewish Board itself reviewed and approved the

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1 steps that the Dutch insurance industry has taken
2 to resolve these Holocaust claims?

3 MR. FISCHER: Yes, it has.

4 MR. COOPERSMITH: Has it produced a
5 report to that effect?

6 MR. FISCHER: It is in the agreement

7 which is in your possession, it's a very
8 elaborate agreement between the Dutch Insurance
9 Association and the Central Jewish Board in which
10 all these steps of which I have just been
11 elaborating a bit are put forward and signatures
12 put under it.

13 MR. COOPERSMITH: And Doctor Fischer,
14 you referred in your testimony to relaxed
15 standards of evidence to evaluate possible
16 Holocaust claims, can you tell us what the
17 standards were and how they were relaxed for this
18 purpose?

19 MR. FISCHER: I am not able to say
20 exactly but they're lenient standards, that is to
21 say it is based on the experience of the last
22 three years because although we didn't have an
23 agreement before the 9th of November of last
24 year, a lot of claims have been handled, and that
25 is for instance only representative of the SJOA

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1 Foundation and should be here to give you more
2 information about it or I can take your questions
3 with me. It means that we don't need any policy
4 or whatever.

5 In most cases what we do is we get
6 questions, would you please find out if there has
7 been a life policy, just as the witnesses just
8 put forward, because it is very probable that my
9 father or my mother had a life policy. If we
10 don't have any records on that ourselves, this is
11 sent to all the life insurance companies who had
12 exposure in and before the Second World War, so
13 they are looking in the archives if they can find

14 anything.

15 Sometimes there are policy numbers but no
16 policies as such, and so for instance, not so
17 long ago we handled four policies which were not
18 there anymore but the policy numbers were there,
19 so we asked all the companies who could have the
20 policies to find out.

21 Since we started this process in the
22 beginning of 1997, about 40 or 42 claims have
23 been honored. I must say that in none of these
24 cases there was proof that a policy was not paid
25 out before, so I can only say the policy is very

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1 lenient as far as let's say a shred of doubt that
2 it was not paid out, it will be paid out.

3 MR. COOPERSMITH: It would be resolved
4 in favor of the claimant?

5 MR. FISCHER: Yes.

6 MR. COOPERSMITH: Is that your
7 testimony?

8 MR. FISCHER: Yes.

9 MR. COOPERSMITH: And you mentioned 42
10 claimants in 1997.

11 MR. FISCHER: I'm not exactly sure,
12 about 40 or 42.

13 MR. COOPERSMITH: We'll accept an
14 approximation. Approximately 40 some Holocaust
15 claims have been paid since the advent of this
16 process in 1997. How many claims have been
17 denied since then?

18 MR. TERWISSCHA: Most of them are not
19 claims but a request for information, no
20 documentation, only a name. We possess about

21 2,000 of those questions and from those 2,000, 44
22 appear to be unclaimed policies.

23 MR. COOPERSMITH: How many claims, if
24 any, have been denied at this point?

25 MR. TERWISSCHA: I don't think there

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1 are claims denied, if you see it as a request for
2 information, there is no problem --

3 MR. COOPERSMITH: Correct, if it was
4 simply an inquiry then it wouldn't result in a
5 claim denial, but the question is whether there
6 have been any claims denials.

7 MR. FISCHER: As far as I know, you
8 know, you must see that most of the questions are
9 the same questions which were put forward before
10 we were sitting on this table. It is very
11 probable that my father or my grandfather had a
12 life policy, would you please be so kind to find
13 if you can find anything in the archives. So
14 that's 95 to 98 percent of the requests are going
15 like this.

16 Sometimes they say is, well, the only thing
17 I can remember is there was a broker on the
18 corner of the street and it must have been a
19 broker, would you please find out so we have some
20 more information. But as far as I know no claims
21 have been denied, there is no complaints against
22 any position made by the SJOA Foundation nor by
23 an individual company.

24 MR. COOPERSMITH: Do you know how many
25 claims are currently under review?

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1 MR. FISCHER: I have a difficulty about
2 claims because I don't think there are claims,
3 there are requests for information and I don't
4 know how many --
5 MR. TERWISSCHA: Several hundreds,
6 about 800 have been sent to the SJOA Foundation
7 in the last three months.
8 MR. COOPERSMITH: Of which only the 40
9 some have been paid?
10 MR. FISCHER: 44 are from before the
11 agreement with the CJL so after agreement, SJOA
12 Foundation is responsible for the handling of
13 claims.
14 MR. COOPERSMITH: Do you know what the
15 approximate amount of the pay-out has been on
16 those claims?
17 MR. FISCHER: About one million Dutch
18 guilders.
19 MR. COOPERSMITH: What is the rough
20 translation into U.S. dollars?
21 MR. FISCHER: 450,000 U.S. dollars of
22 which one claim, the claim I told you about
23 Israel was about 300,000 guilders so it was a big
24 one, so although we have this multiplier of 22,
25 it goes for small amounts of money which end up

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1 to one million guilders in three years.

2 MR. COOPERSMITH: Is that the full
3 value?

4 MR. FISCHER: That's the full value,
5 yes.

6 MR. COOPERSMITH: Okay.

7 MR. FISCHER: So what we tried to

8 establish is the insured value of the policy and
9 then it will be multiplied by 22 or in 2000, 2001
10 it will be 23 or 24 because it's adjusted for
11 inflation.

12 MR. COOPERSMITH: Can you be more
13 specific in what formula you applied to determine
14 what the full value of the insurance policy
15 issued during the Holocaust era or before would
16 now be?

17 MR. FISCHER: What we have done
18 together also with the Central Jewish Board is
19 try to figure out what would be a fair
20 compensation as far as inflation is concerned and
21 we have used long term government bonds as a
22 basis for inflation so that we have this factor
23 22 which was quite difficult for us to convince
24 our members to be a fair share because just at
25 the same time that I checked would have been

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1 very, how do you say, glad if the other companies
2 were going to pay a multiplier of a factor of 10,
3 so I had to explain some of this to my members.

4 MR. COOPERSMITH: Doctor Fischer, in
5 your testimony you mention a web site, is that
6 correct?

7 MR. FISCHER: That's correct.

8 MR. COOPERSMITH: Who maintains the web
9 site?

10 MR. FISCHER: SJOA Foundation.

11 MR. COOPERSMITH: Where is the web
12 site, are you familiar with that address?

13 MR. FISCHER: Stichting, S T I C H T I
14 N G, strike, SJOA, S J O A. And you can find it

15 in Dutch and you can find it in English.

16 MR. COOPERSMITH: Do you know what the
17 English translation, what that address is?

18 MR. TERWISSCHA: It's the same address
19 but when you come in you can choose between
20 languages within the web and decide.

21 MR. COOPERSMITH: Do you keep a tally
22 of how many visits have been made to the web
23 site?

24 MR. FISCHER: We don't but the SJOA
25 Foundation does.

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1 MR. TERWISSCHA: Lots of people are
2 entering the site but I am also from the
3 association, I don't have those figures.

4 MR. FISCHER: It's not only -- even
5 that figure wouldn't be, I think, the whole story
6 because we also put these names in Israel on a
7 web site of the Dutch in Israel, so we should add
8 up these times that people are visiting the web.

9 MR. COOPERSMITH: So this information
10 is not maintained by the industry but rather
11 independently by the SJOA Foundation, is that
12 correct?

13 MR. FISCHER: That's true.

14 MR. COOPERSMITH: What information can
15 someone find on that web site?

16 MR. TERWISSCHA: A general overview of
17 the process of robbery of the Jews' policy during
18 the war and the address after the war, and all
19 the information to file questions and claims at
20 the SJOA Foundation. There are at least 750
21 unclaimed policies.

22 MR. COOPERSMITH: There is a list of
23 750 unclaimed policies, and how did you arrive at
24 that number?

25 MR. TERWISSCHA: We asked, the SJOA

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1 Foundation asked the insurance industry to search
2 the archives and it's a process that was
3 conducted about two years ago and it's still
4 going on, and they came up with 750 unclaimed
5 policies. The research is still going on, for
6 example there will also be an audit organized by
7 the Dutch colleagues who have four unclaimed
8 policies. It's a list and more names will be
9 added in the next coming months.

10 MR. FISCHER: But I think we must be
11 clear about 750 in total according to the
12 independent inquiry commission into this affair,
13 that the total amount of unclaimed policies in
14 Holland must be between let's say 2,500 to 3,000
15 so we found about 750. As you perhaps know, the
16 archive situation in Holland is normally good so
17 a lot of it has been maintained. But there are
18 also countries who had archives bombed in the war
19 or wind up in fires, so that is my honest
20 expertise that you will never find this 2,500; if
21 we find another 200 I would be very glad.

22 MR. COOPERSMITH: How was 2,500 or
23 3,000 range arrived at?

24 MR. FISCHER: There must have been a
25 list based on the Germany looting systematically

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1 during the war so they forced all the Jews to

2 give, if they had any jewelry and any other
3 stuff, also on the insurance policy. So after
4 the war and also during the war there was a list
5 of all the Jews by name and what their insurance
6 policies were and all those kind of things. On
7 the basis of that this commission concluded that
8 there must have been between 2,000 and 3,000
9 unclaimed policies.

10 This list doesn't exist anymore but on the
11 agreement we had with the state in 1954, 1955, in
12 this agreement you can find that there were so
13 many policies unclaimed with an insured value or
14 a surrender value of so much. After '54, '55
15 there have still been payments on these
16 surrendered money, so I think about one third has
17 been paid after this agreement because it went
18 down from 700,000 guilders to 450,000 guilders,
19 so we are quite sure about the amount of policies
20 which had been unclaimed up till now and more or
21 less I think we found 750 out of 2,000, 2,500.

22 MR. COOPERSMITH: Can you describe what
23 the ongoing process is to determine if there are
24 any other unpaid policies outstanding?

25 MR. FISCHER: No.

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1 MR. COOPERSMITH: What are you doing
2 to, you say you are continuing to investigate to
3 identify at least what you think are as many as
4 750 unpaid policies, what are those steps you are
5 taking?

6 MR. FISCHER: What we are doing, that
7 depends on the company because this is labor
8 which is done in the company, some companies

9 don't have to do anything because they have a
10 pile of unpaid policies since beginning in the
11 19th century so they have it all together, so
12 they don't have to do any other research.

13 Other companies don't have such archives but
14 it depends on the state of archives but everybody
15 after 12 companies who were working in the metal
16 and steel industry during the war and before the
17 war, they are looking for all the names they can
18 find for not only Jews but also non-Jews on an
19 automated system.

20 So what I have been telling to officials and
21 commissioners before, I think in between six
22 months and one year every Dutch company or
23 company working in Holland will have an automated
24 system in which all names can be processed.

25 MR. COOPERSMITH: Can you tell us where

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1 else and what other means these names, these
2 unclaimed policy numbers have been made public?
3 You mentioned the internet, have they been
4 published elsewhere?

5 MR. TERWISSCHA: The people that are
6 asking have the possibility to get the list by
7 post.

8 MR. COOPERSMITH: Of course, the names
9 are available to the Central Jewish Board and the
10 SJOA Foundation, they have the list as well, is
11 that correct?

12 MR. TERWISSCHA: Yes, as well as the
13 Washington State.

14 MR. COOPERSMITH: Right, and you have
15 submitted it to the Washington State office for

16 insurance claims, have you not?

17 MR. FISCHER: Yes.

18 MR. COOPERSMITH: What barriers, if
19 any, were presented by Dutch law to the
20 disclosure of these policies?

21 MR. FISCHER: We submitted the
22 beginning of April a letter of comfort initially
23 through the Commissioner of the State of
24 Washington in which we are allowed, we have a
25 very strict privacy law but we are allowed to

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1 publish the names of the policy holders of
2 unclaimed policies, so that is also what we had
3 to do.

4 And we have translated this letter because I
5 am not a lawyer, I don't know exactly what the
6 legal terms are, but as far as Dutch law is
7 concerned we are permitted to do that and not
8 only that, we have also considered common
9 directives of the European union. So I think we
10 have complied with state laws in several states
11 in the United States.

12 MR. COOPERSMITH: Let's explore that in
13 a little further detail.

14 MR. TERWISSCHA: We have a small
15 problem, our plane is leaving in one hour.

16 MR. COOPERSMITH: We just have a few
17 more minutes, we're certainly mindful of that,
18 we'll make sure that you have plenty of time to
19 make your airplane.

20 With regard to the privacy laws, you
21 mentioned that it was permissible to publish the
22 names of the unclaimed policies, correct?

23 MR. FISCHER: Yes.

24 MR. COOPERSMITH: Did that exemption
25 exist in current Dutch law or did you have to

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1 seek that exemption?

2 MR. FISCHER: We have to seek an
3 exemption. What we have been doing is we have
4 been hearing, that is to say the chairman of the
5 Central Jewish Board and I have made an
6 appointment with the chairman of the privacy
7 board in Holland, and we have explained that we
8 would like to find people who are beneficiaries
9 or heirs of these unclaimed policies, let's say
10 these 750 or 800 names. And we have asked for
11 permission to put these names in lists or on the
12 internet and give them to Israel and the states
13 of the United States.

14 As far as I could find out in the letter of
15 comfort we got, it has been a balance of
16 interests, on the one hand, we have got privacy
17 which is very strict as far as living persons is
18 concerned but we could convince the chairman of
19 this board, I and the chairman of the Central
20 Jewish Board, that most of the names which come
21 on this list must have died, because also in the
22 50's they have tried to find these, they were not
23 there, 60 years after the war or 55 years after
24 the war. So the chance that there are many
25 living persons, that was a big problem, it's very

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1 small, and in the balance of interest regards
2 this letter of comfort to be published not only

3 in Holland but also allowed to give them to the
4 net and everybody.

5 MR. COOPERSMITH: Doctor Fischer, did
6 the meeting between you and the Dutch regulators
7 occur with the Dutch Insurance Association?

8 MR. FISCHER: Yes.

9 MR. COOPERSMITH: How long a process
10 did it take to obtain that exemption from Dutch
11 privacy laws?

12 MR. FISCHER: I must say I had a dinner
13 with chairman of the -- and also with the member
14 of the Central Jewish Boards I think in October
15 of last year and then I came forward with a
16 question, not a formal question but I talked to
17 the chairman, well, you must expect a question of
18 us in the coming month, we will come to you and
19 ask you this question because we think we will
20 find names during this process of investigation
21 of the archives, so don't be astonished if we
22 come with this request.

23 Now I am just thinking it must have been the
24 end of the second half of February that I went to
25 this chairman in a formal way together with the

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1 chairman of the Central Jewish Board and we got
2 the permission about four or five weeks later,
3 the 30th of March or the 27th of March.

4 MR. COOPERSMITH: Four to five weeks
5 after your formal request?

6 MR. FISCHER: Four to six weeks. I
7 think I also had a letter in which I asked for a
8 letter of comfort, so the official request and
9 the answer to that are also available in English.

10 MR. COOPERSMITH: Doctor Fischer or
11 Mr. Terwisscha, are you familiar at all with
12 German privacy laws?
13 MR. TERWISSCHA: No.
14 MR. FISCHER: No.
15 MR. COOPERSMITH: You did mention
16 however that there was a European law, is that
17 correct, that was applicable to these policies.
18 Can you tell us what you know about that?
19 MR. FISCHER: I am an economist, I'm
20 not a lawyer. What I've heard that this is a
21 letter that the chairman of the privacy board
22 said that there should be a directive on the
23 privacy law in the European union and he knows
24 more or less how this directive is going to
25 function or the contours of this directive. And

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1 I think in his letter he considered the probable
2 outcome of this European directive so he not only
3 tested against Dutch privacy law but also to the
4 common or expected privacy law in a European
5 union.

6 MR. COOPERSMITH: So to your knowledge
7 the exemption and the release of the names was
8 consistent with forthcoming European union law?

9 MR. FISCHER: No, I don't take any
10 responsibility for that because I am not a
11 lawyer, I know nothing about European law.

12 MR. COOPERSMITH: Was the European
13 union laws, were they taken into account by the
14 relevant Dutch authorities when they made the
15 exemption?

16 MR. FISCHER: As far as I know, yes,

17 because he sends something in his translated
18 letter about directives to come into the European
19 union.

20 MR. COOPERSMITH: Why did you take that
21 personal role in seeking the exemption from the
22 Dutch privacy laws for the disclosure of the
23 Holocaust policies?

24 MR. FISCHER: Because our attention has
25 always been to pay out what has not been paid out

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1 and it is much easier to do that in a reachout
2 program because so many Dutch Jews have gone to
3 other places. In Holland we could do it in
4 another way, say a reachout program in Holland,
5 but Dutch Jews have fled to places like Canada,
6 Los Angeles, Israel, Australia. The only way to
7 do it in a proper way was to put it on the
8 internet so that was the reason why we asked to
9 be able to publish it not only in Holland but
10 also internationally.

11 MR. COOPERSMITH: I have only one more
12 question, I want to check with the staff to make
13 sure that we just pose the one last question and
14 then let you go.

15 Two more quick questions. First, what is
16 the status of the Dutch Insurance Association
17 with the International Commission process?

18 MR. FISCHER: We have written a letter
19 to Mr. Eagleburger on the 24th of March in which
20 we answered his question if we would like to join
21 the Eagleburger Commission, would like to join as
22 a member. We have answered his request by the
23 letter of 24th of March in which we asked him to

24 consider also the agreement, to be very short,
25 the agreement was to the Dutch Board and as far

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1 as I know the chairman of the commission Mr.
2 Eagleburger, will sign a letter who will speak to
3 all our terms in the letter. So as far as I know
4 I have not only heard it from Mr. Eagleburger,
5 but the World Jewish Congress will be a member
6 formally this month.

7 MR. STERN: Would that be a collective
8 membership?

9 MR. FISCHER: Yes.

10 MR. COOPERSMITH: Are you prepared on
11 behalf of the Dutch Insurance Association to make
12 a commitment to pay for any unpaid Holocaust
13 insurance claims that have been reviewed and
14 approved by the SJOA Foundation?

15 MR. FISCHER: Once again, please.

16 MR. COOPERSMITH: Are you prepared to
17 pay any unpaid Holocaust insurance claim that has
18 been reviewed and approved by the SJOA
19 Foundation?

20 MR. FISCHER: We don't have to have pay
21 anymore because we have this fund of 20 million
22 transferred to the SJOA Foundation and it is our
23 strong belief that this amount of 20 million will
24 be much more than will be possibly asked by
25 individual claimants, so then the money will go

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1 to the Humanitarian Fund.

2 MR. COOPERSMITH: So then whatever the
3 balance is of the initial 20 million gilder

4 contribution, that balance will then go to the
5 Humanitarian Fund?

6 MR. FISCHER: Yes.

7 MR. COOPERSMITH: And why was the
8 decision made to contribute more than what
9 reasonably anticipated you expected to pay out?

10 MR. FISCHER: Just to be on the sure
11 side, we don't know exactly because if you look
12 at the unpaid policies and multiply them by 22
13 you come to an amount of 30 million, but it is
14 our strong belief that only a few survivors will
15 be able because this was done much effort after
16 the war to find them. Well, the chance of
17 finding them 60 years later is very small so I
18 think there will be only two or three or perhaps
19 more. But you would excuse us now.

20 MR. COOPERSMITH: Doctor Fischer and
21 Mr. Terwisscha, we are very grateful for your
22 participation and we appreciate all the
23 cooperation that you have extended to the
24 Washington State Office of the Insurance
25 Commissioner and we wish you luck in catching

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1 your plane.

2 At this time we will take a brief recess.
3 Let's come back at 2:25.

4 (Recess taken.)

5 MR. COOPERSMITH: Mr. Singer, thank you
6 so much for joining us. Can you introduce
7 yourself and spell your name for the record.

8 MR. SINGER: Certainly. My name is
9 Roger Singer and I am the general counsel of the
10 CGU Insurance companies in the United States.

11 And I probably should explain what CGU is. Even
12 I am still stumbling over it.

13 MR. COOPERSMITH: I thought that would
14 be an appropriate place to start.

15 MR. SINGER: CGU is the result of the
16 merger in 1998 of Commercial Union PLC of England
17 of the United Kingdom and General Accident PLC of
18 the United Kingdom. Two companies merged in June
19 of 1998 forming a company which they named with
20 the acronym CGU, which I am told doesn't mean
21 anything.

22 CGU owns the former insurance companies
23 owned by both Commerical Union PLC and General
24 Accident PLC in the United States. And a number
25 of those companies, of course, are licensed in

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1 the State of Washington where we do have an
2 office and do business in the state and have 96
3 employees in Washington state.

4 CGU PLC fairly recently purchased small
5 companies in Germany and in France, the German
6 company in late 1998, the French company in the
7 early 1990's. CGU for a number of years - since
8 1973 or '74, I believe, is a Dutch company, Delta
9 Lloyd, which is one of the larger Dutch insurers,
10 it's represented by Mr. Fischer, it's the third
11 or fourth largest. And we have done some
12 research and I believe they had 12 percent of the
13 market share during the relevant Holocaust period
14 in Holland. And in fact, of the 750 or 760 names
15 that are on the SJOA web site and the Washington
16 insurance department's web site, 36 of those are
17 Delta Lloyd policies and they represent policies

18 that (in this state) we have been able to
19 identify as Holocaust victims' unclaimed
20 policies.

21 MR. COOPERSMITH: Thank you, Mr.
22 Singer. It's my understanding that the two
23 companies which we will be focusing today that
24 are part of the CGU family are Delta Lloyd as
25 well as -- Berlinische Leben, and could you spell

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1 that name for the record, please.

2 MR. SINGER: Yes, but not from memory.

3 MR. COOPERSMITH: And while you are
4 looking for the spelling of it, I would also
5 appreciate if you give us a brief company history
6 of Berlinische Leben.

7 MR. SINGER: Berlinische is spelled B E
8 R L I N I S C H E, second word Leben, L E B E N.

9 MR. COOPERSMITH: And for brevity's
10 sake we'll call it BL. Can you give us a brief
11 company history of BL which respect to its
12 involvement in Holocaust era insurance policies?

13 MR. SINGER: BL which was purchased, as
14 I said, by CGU PLC in late 1998 was, did write
15 business during the Holocaust period. And we
16 believe it had about one or two percent of the
17 market during that period, it was a relatively
18 small company. It's headquartered in Weisbaden
19 now. This is a relatively recent acquisition. I
20 assume at one time it had a headquarters office
21 in Berlin, I don't know that for a fact but I am
22 assuming that from the name. And I assume after
23 the war with the capital of Berlin being in East
24 Germany, that the headquarters was moved to

25 Weisbaden in West Germany where it operates

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1 today.

2 MR. COOPERSMITH: Mr. Singer, you just
3 mentioned that you believed that BL had a small
4 market share during the relevant period, is that
5 correct?

6 MR. SINGER: Yes, CGU hired Price
7 Waterhouse Cooper's, its auditors to audit its
8 Holocaust exposure. And one of the reasons for
9 doing this is this exposure is relatively recent,
10 this isn't a company that we owned for very long.

11 In fact, we purchased it after the
12 International Commission was founded.

13 What Price Waterhouse has done is gone out
14 to the relevant sites where the company was,
15 attempted to do as much research as they could
16 and it's still ongoing, to find out something
17 about the history of the company.

18 And I have an audit from them, I don't know
19 the exact numbers but they believe that in the
20 period, relevant period we're talking about when
21 Holocaust victims were sold policies, that it had
22 -- I think maybe the number is one and a half
23 percent by number and maybe two and a half, three
24 percent by value of policies.

25 MR. COOPERSMITH: Are you familiar with

0055

1 the letter that you wrote to the agency on March
2 23 of 2000?

3 MR. SINGER: To Mr. Stern?

4 MR. COOPERSMITH: Yes, that's correct.

5 MR. SINGER: Yes, I am very familiar
6 with what I wrote.

7 MR. COOPERSMITH: You state that with
8 respect to many of the companies, you are
9 referring to CGU, we "did not know when it
10 commenced to cease writing business in particular
11 countries, the class of business written or the
12 premiums collected."

13 MR. SINGER: That's correct, that does
14 refer to Berlinische Leben.

15 MR. COOPERSMITH: What does it refer
16 to?

17 MR. SINGER: If you look at the filing
18 of October 21, 1999 that I sent to Mr. Stern, we
19 listed every company in the group that could have
20 written in that period. There are no eastern
21 European companies but there are companies that
22 were in Holland, in Belgium, and at that time we
23 thought there might be an Italian predecessor.
24 We have since that time pinned that down. Since
25 the date of the March 23rd letter we believe

0056

1 there is not exposure in Italy or the company was
2 formed, the company was reowned and postdated the
3 Holocaust period.

4 So really what that statement refers to is
5 the number of the companies listed in the filing
6 made back in October, including some of the
7 English companies. We spent some time looking at
8 the English companies that had managing general
9 agents in Europe and the auditors can't find any
10 archive sites, we can't find a single policy from
11 those countries.

12 So the statement is accurate but as to the
13 companies where we think there is real Holocaust
14 exposure and I think there is some, those
15 companies are what became Delta Lloyd in Holland
16 which was the successor to I believe six
17 companies. Berlinische Leben which I think may
18 have purchased another company in the period and
19 we are still trying to determine the name, what I
20 think is Hamburg Life, the Belgium companies
21 which I can't pronounce but are in the filing,
22 and the French company LBV in the mid 1990s CUPLC
23 purchased from Blue Suez (phonetic), a French
24 insurer which has a reasonable market share now
25 but it was quite small during the period in the

0057

1 '30s and '40s.

2 MR. COOPERSMITH: Mr. Singer, is it
3 fair to say that you don't know when the
4 respective companies began or stopped writing
5 business, you don't know where they wrote the
6 business, you don't know the type of business and
7 the amount of payment records, you really don't
8 have a precise figure on what the market share
9 was during relevant periods or CGU's potential
10 exposure with respect to Holocaust claims?

11 MR. SINGER: I don't know that as to
12 whether in the Belgium, German, French and Dutch
13 companies, that's correct, but as to the
14 companies in Germany, Belgium, France and
15 Holland, we think we have a pretty good handle on
16 that.

17 MR. COOPERSMITH: Let's discuss what
18 search the CGU companies have conducted to

19 determine whether there are in fact unpaid
20 Holocaust insurance claims out there, can you
21 tell us about that?

22 MR. SINGER: Certainly. What we did,
23 as I said before, was we enlisted Price
24 Waterhouse Coopers and people running it are
25 actually out of their Birmingham, England office,

0058

1 but what they have done is physically gone to
2 every site where there is a CGU company existing
3 now in a part of Europe that would have been
4 under Nazi domination and they have made an audit
5 and have found some files as a result of that.
6 An audit conducted by asking people where are old
7 files, are there any old files, where do you send
8 things to storage, are there any archive sites
9 and those kinds of questions. And they have
10 turned up some old file records that current
11 staff wasn't aware of.

12 MR. COOPERSMITH: And this was a search
13 conducted by the auditing firm itself?

14 MR. SINGER: In cooperation with the
15 local companies is my understanding.

16 MR. COOPERSMITH: But reviewed at
17 minimum by the audit company?

18 MR. SINGER: Yes, they issued their
19 audit opinion as to what exists now or they are
20 in the process of issuing that.

21 MR. COOPERSMITH: What files have you
22 uncovered as a result of this process?

23 MR. SINGER: We did find in Germany a
24 microfiche, microfilm records of what looks like
25 a policy holder list that was created in about

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1 1960. And what it is is a bunch of rolls of
2 microfilm that someone in 1960 decided they
3 should capture all the client list information
4 they had at the time, it looks like what they did
5 was they kept index cards of every client, and
6 most of the cards seem to have first name, last
7 name, date of birth, in most cases policy number,
8 and sometimes they have other notations. I went
9 to Germany myself to see them. It's quite an
10 extensive list.

11 One problem is it goes back as far as they
12 had cards. The first one I pulled out had to do
13 with a life insurance policy that was paid in
14 1894. But we do have them and we are going
15 through the process with temporary help now of
16 having the people look at a microfiche machine
17 and we've set up a special area and a number of
18 temporary workers and they are reading the
19 microfiche and entering it into a computer
20 database. Their initial estimate is this is 71
21 person years of work. It's ongoing. It
22 certainly won't be done for a number of months,
23 the estimate as to how long it will take is very
24 difficult.

25 MR. COOPERSMITH: Can you give us an

0060

1 approximation?

2 MR. SINGER: We certainly expect to
3 complete it by the end of the year.

4 MR. COOPERSMITH: What happens to the
5 names or policies that you identify as potential

6 Holocaust policies at this point or are you going
7 to wait until the process is over?

8 MR. SINGER: What we are trying to do
9 is find a way to run the list against any
10 Holocaust list we have access to, including the
11 ones in German by the equivalent of the SJOA
12 Foundation in Germany, and we want to make public
13 as soon as we can to determine any unclaimed
14 Holocaust policy and that's our intent and we'll
15 do that.

16 As you pointed out earlier, there are
17 privacy law restrictions but I believe to the
18 extent we can prove for the local regulator that
19 it's an unclaimed Holocaust policy, I assume we
20 will have the same treatment that we did as to
21 our Dutch files, that no one would say that's
22 something you can't put out into the public.

23 MR. COOPERSMITH: Mr. Singer, it's also
24 quite clear that what you are defining what
25 constitutes a Holocaust era insurance policy,

0061

1 unclaimed Holocaust insurance policy. Is there a
2 company definition, is it a SJOA Foundation or
3 International Commission definition?

4 MR. SINGER: In Holland we are using
5 the SJOA Foundation. Elsewhere the CGU through
6 the secretary has told me that they use
7 International Commission standards, both
8 standards of proof and evaluation based on
9 International Commission documentation.

10 MR. COOPERSMITH: But forgive me, I
11 think I was posing a different question. Not
12 what the standard of proof was but how you even

13 reach that threshold of whether you have a
14 potential unpaid Holocaust claim or not.
15 MR. SINGER: The first issue is to find
16 out whether we can determine if one of these
17 insureds is a Holocaust victim and there are a
18 number of lists that once are automated that we
19 can compare with and attempt to identify people
20 in that respect. It will be more difficult to
21 tell what was paid. In Germany there was the BEG
22 and that's about 35 letters, I can't even say it
23 in German or even spell it or come close to
24 spelling it, it has a pretty good list of what
25 was paid out in redress after the war.

0062

1 MR. COOPERSMITH: Can you spell out for
2 us which lists you are going to be cross
3 referencing?

4 MR. SINGER: We are going to cross
5 reference the Yad Vashem list and our auditors
6 have already talked to people there and the
7 Volker Commission people about access to that
8 list. There is also a list in Germany of victims
9 and they tell me they are attempting to find out
10 to what extent that's automated.

11 MR. COOPERSMITH: Which German list is
12 this? You have mentioned specifically the Yad
13 Vashem list which is the Israeli Holocaust Museum
14 list, is that right?

15 MR. SINGER: Yes. There is a list in
16 Germany, I am told. Again, I will attempt to get
17 you that name.

18 MR. COOPERSMITH: If you can tell us
19 who maintains the list and how you propose to get

20 access to that list. And if you could follow up
21 after the hearing with Mr. Stern.

22 MR. SINGER: I think that might make
23 more sense than for me to --

24 MR. COOPERSMITH: Fine, as long as you
25 follow up with Mr. Stern or Mr. Kadden.

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1 MR. SINGER: Certainly.

2 MR. COOPERSMITH: You mentioned two
3 now, a German list, an Israeli Holocaust Museum
4 list, are there any other lists you are going to
5 be cross referencing?

6 MR. SINGER: My understanding is that
7 the Volker Commission is working with the Yad
8 Vashem to improve the breadth of their list so
9 we'll take into account that too. And I also
10 understand from French CGU employees I have
11 talked to that there is, again I can get you the
12 name afterwards, a list of French victims of the
13 Holocaust and we will certainly make use of that
14 list also.

15 MR. COOPERSMITH: This is extremely
16 important to this agency so I'm going to ask you
17 to be still more specific of what you are going
18 to take an account of.

19 MR. SINGER: Yes, I'm sorry for not
20 being more specific. What we are attempting to
21 do is get our list in an automated format so we
22 can make an electronic, I don't know the right
23 computer word, but so that we can run the lists
24 against each other to find matches, that's what
25 we intend to do.

0064

1 MR. COOPERSMITH: I am still a bit
2 puzzled as to how you put the names on the list
3 in the first place.

4 MR. SINGER: We have a number of people
5 sitting in a room in Weisbaden reading
6 microfiche, entering an Access database name,
7 address, date of birth, and every customer we
8 knew we had prior to 1960. We don't have a
9 method at the moment of breaking it down more
10 finely. But we're comfortable once we get all
11 those people in we will have as comprehensive a
12 list we think we can have of every policy holder
13 that Berlinische wrote.

14 MR. COOPERSMITH: Does this apply just
15 to BL or does this apply to all of the relevant
16 CGU companies?

17 MR. SINGER: That applies to BL. In
18 Holland, again we have six predecessor
19 companies. One of them had rather extensive
20 records recently uncovered. Hollandish Society,
21 Holland Society, primarily burial policies.
22 However it looks like a pretty complete archive
23 and what we are doing is scanning them into
24 electronic format so they can be read in
25 electronic format and then indexed. The same

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1 process will be followed with those.

2 MR. COOPERSMITH: In both these
3 instances will there be an outsider, external to
4 the company, that reviews what you've done and
5 determines whether you are in fact properly
6 allocating the names to be on the list or off the

7 list?

8 MR. SINGER: Price Waterhouse Coopers
9 is doing the audit of that and of course on all
10 three of those, on both of those nations there
11 are local insurance foundations, the Dutch one in
12 Holland and the French one in France and the
13 German one in Germany that are involved in
14 reparation settlements which we will participate
15 in. And so we are also planning to both
16 contribute to all those funds, as we have
17 contributed in Holland, the funds Mr. Fischer
18 referred to of the 50 million that was
19 contributed to that fund to pay claims, Delta
20 Lloyd contributed 6 million guilders in 1999.

21 So I guess in a roundabout way what I am
22 saying is we have independent auditors looking at
23 it and we're cooperating with the local trade
24 associations in each state like Mr. Fischer's,
25 each country.

0066

1 MR. COOPERSMITH: And you mentioned in
2 your March 23 correspondence that there may be
3 some difficulty with respect to CGU companies on
4 account of possible loss or destruction of
5 company records, is that correct?

6 MR. SINGER: That's correct, certainly
7 some records have been destroyed.

8 MR. COOPERSMITH: Can you tell us how
9 that came about?

10 MR. SINGER: No, they were destroyed
11 years ago.

12 MR. COOPERSMITH: But how? You
13 mentioned that there was some destruction during

14 the war of company facilities, is that correct?

15 MR. SINGER: Yes, certainly some of the
16 facilities in Germany were actually bombed. In
17 other cases it's just been so many years that the
18 way we try to find records is auditors and
19 company employees talk to former employees and
20 ask where was the office in 1950, what happened
21 to it, where were records kept. Unfortunately
22 but not unsurprisingly, some records have either
23 been destroyed under normal record destruction
24 policies or simply been misplaced, and that's why
25 we have tried so hard to find every one we can

0067

1 find.

2 MR. COOPERSMITH: Mr. Singer, have you
3 ever identified for the benefit of the Office of
4 the Insurance Commissioner which of those company
5 facilities may have been destroyed and in which
6 cities during the war?

7 MR. SINGER: Which were destroyed?

8 MR. COOPERSMITH: Sure.

9 MR. SINGER: No, but I don't want to
10 leave you with the impression that we don't have
11 records. They just assumed when we talked to
12 people, that records that were kept presumably in
13 Berlin may not have survived the war, we don't
14 know that for sure. What we do know is through
15 careful audit of every record archive site that we
16 have now.

17 MR. COOPERSMITH: But you did
18 specifically mention in your letter that there
19 was destruction during the war and what we need
20 is some explicit knowledge. I mean obviously

21 during the war not all buildings and all cities
22 in Germany were destroyed, so simply saying that
23 they were destroyed is insufficient without
24 identifying for us where those facilities were.

25 MR. SINGER: Could you tell me what

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1 you're referring to, just so I can refresh my
2 recollection?

3 MR. COOPERSMITH: With respect to BL, I
4 am referring to page three of your March 23, 2000
5 letter. Mr. Singer, on page three, with respect
6 to BL, "many files from this time period were
7 destroyed or lost during World War II."

8 MR. SINGER: I believe that was true
9 but I don't know why they were lost or why they
10 were destroyed. We do know that the company was
11 not in the Weisbaden location during the war or
12 were not at the headquarters there. Like you, I
13 can only guess what happened to records 60 years
14 ago. There is no one around to remember
15 precisely where each record is.

16 MR. COOPERSMITH: But surely you have
17 evidence of where you maintained offices during
18 World War II, do you not?

19 MR. SINGER: I don't personally have
20 the records of that.

21 MR. COOPERSMITH: But you are here in a
22 representative capacity, isn't that right?

23 MR. SINGER: Yes. We can do -- I guess
24 I just have to -- certainly we could do that but
25 I would like to clarify that I wrote, many files

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1 from this time period were destroyed or lost
2 during World War II, that's true but I don't know
3 how they were destroyed or how they were lost.

4 MR. COOPERSMITH: But you can
5 appreciate our obligation as regulators trying to
6 ensure that the terms of the Holocaust victims
7 are redressed or being carried out, that when a
8 company invokes this as an explanation for why it
9 has so few potential Holocaust claims, that we
10 then ask for proof of that, just as we would ask
11 for proof of any other assertions made. So we
12 would appreciate that in a timely fashion you
13 could report on what facilities were in fact
14 destroyed during World War II.

15 MR. SINGER: I would just like to
16 clarify for the record, I don't know that
17 facilities were destroyed.

18 MR. COOPERSMITH: Then if you could
19 confirm that, if you could speak with your
20 company representatives to determine whether in
21 fact they were or they weren't.

22 MR. SINGER: Certainly.

23 MR. COOPERSMITH: Responding to the
24 assertion that we received in your letter, you
25 also refer in the letter to a search being

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1 conducted by senior executives of the parent
2 company, is that correct?

3 MR. SINGER: That's correct.

4 MR. COOPERSMITH: Could you elaborate
5 on that?

6 MR. SINGER: Yes. I want to make it
7 clear we take this very seriously and the group

8 company secretary in London and the group
9 compliance manager have formed this group of
10 members of the staff of the European affiliates,
11 their subsidiaries. And I have participated in
12 that and we have actually made site visits to
13 sites in Germany and Holland in an attempt to
14 talk to people to determine what might be there
15 and also to get the point across that we consider
16 it pretty important, that the group wants this
17 resolved and wants to find out if we can identify
18 any unclaimed policies and pay them, that's why
19 we're doing it.

20 MR. COOPERSMITH: When did you
21 undertake the process of hiring the outside
22 auditing firm so that it could help discover any
23 lost files?

24 MR. SINGER: I don't know the exact
25 date but I think it was within the last six

0071

1 months because what would happen is we would make
2 repeated inquiries to the affiliates and it
3 became uncomfortable, depending on exactly how we
4 phrased the question, that the information was
5 just hard to develop. It became clear that an
6 auditor had to actually go on site and interview
7 people and form an opinion, that's why we did it,
8 to ensure we were getting absolutely everything
9 we could.

10 MR. COOPERSMITH: What took so long, if
11 I may ask, in retaining an outside auditor if so
12 many years had elapsed since the end of the war
13 and here you are just now finding microfiche
14 files that may have relevant information and I

15 think you conceded that that was discovered by
16 any outside auditor, is that correct?

17 MR. SINGER: Actually it was in
18 concert, I am not sure who actually recognized
19 what these microfiche rolls were. All I can say
20 is that the company is trying to be as responsive
21 as possible and clearly it's something that we
22 would like to be able to say that we have
23 identified every unclaimed policy and paid it.

24 MR. COOPERSMITH: You have also
25 apparently recently discovered a large number of

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1 records related to Delta Lloyd, is that correct?

2 MR. SINGER: Yes, those were discovered
3 -- this is the Holland Society, the industrial
4 policy insureds, and that has taken some time to
5 get in electronic format, it's not completed yet,
6 but what those are, these index cards that refer
7 to these policies, these are almost exclusively
8 burial policies, they were low face amount, sold
9 like industrial coverage through trade guilds and
10 so forth. Those have been developed and of
11 course as we find people on those lists we will
12 publicize them.

13 MR. COOPERSMITH: You will publicize
14 the names as soon as you find that there is a
15 potential Holocaust claim?

16 MR. SINGER: Exactly. In Holland we
17 intend to do it through Mr. Fischer and his
18 association.

19 MR. COOPERSMITH: What process do you
20 intend to follow with respect to the other
21 claims?

22 MR. SINGER: We want to make the claims
23 known as soon as possible. As you may be aware,
24 both the German association and the French
25 association are close to completing negotiations

0073

1 in setting up funds similar to the Dutch
2 association. The French association, I believe
3 the number is 70 million francs, they're going to
4 contribute and I think our share of that is 1.5,
5 one and a half percent of those 70 million
6 francs. And they are going to set up a process
7 very similar to the Dutch process to make the
8 names available.

9 MR. COOPERSMITH: How did you determine
10 the one and a half percent share?

11 MR. SINGER: Our auditors determined
12 that, but I believe independently the French
13 association has a very similar number. Their
14 number might be 1.7 percent but I am not certain.

15 MR. COOPERSMITH: And you are referring
16 to the industry trade association, is that
17 correct?

18 MR. SINGER: Yes.

19 MR. COOPERSMITH: Is the industry trade
20 association working with any Jewish groups or any
21 other outside groups in the evaluating?

22 MR. SINGER: Yes.

23 MR. COOPERSMITH: Which groups are
24 they?

25 MR. SINGER: I don't know the name of

0074

1 the one in France but I think it's the equivalent

2 of the SJOA in France.

3 MR. COOPERSMITH: What about the German
4 association, are they working with outside Jewish
5 groups to have their process evaluated?

6 MR. SINGER: I believe that's true.
7 That sum of money is 245 million dollars and
8 that's the part that's attributable for insurance
9 in the term of settlement and they are working
10 with outside groups.

11 MR. COOPERSMITH: Are you familiar with
12 BL's share of that?

13 MR. SINGER: Again, that would be about
14 one and a half to two percent, I believe.

15 MR. COOPERSMITH: Are you prepared to
16 commit to full cooperation with both the German
17 and the French association as well as the Dutch
18 association?

19 MR. SINGER: Yes, we're fully committed
20 to cooperating with those associations in each
21 country.

22 MR. COOPERSMITH: And you said that you
23 were also committed to publicizing the names of
24 the potential unpaid Holocaust policies as soon
25 as possible, is that correct?

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1 MR. SINGER: That's correct.

2 MR. COOPERSMITH: And by publicize,
3 what are you committed to doing?

4 MR. SINGER: Once we know we have an
5 unpaid unclaimed Holocaust victim policy, we will
6 use all available resources to be sure that
7 people can have access to that.

8 MR. COOPERSMITH: Can you be more

9 specific?

10 MR. SINGER: Those would be the lists
11 including the Dutch list that's on the internet,
12 any German and French lists that are developed,
13 and of course we would share them with the
14 International Commission and we would share them
15 with the Insurance Commissioner of the State of
16 Washington.

17 MR. COOPERSMITH: Are you prepared to
18 follow the example of the Dutch insurers and post
19 those names on the internet as well?

20 MR. SINGER: Yes, we are.

21 MR. COOPERSMITH: Have you done so thus
22 far with any policy holder names?

23 MR. SINGER: Yes, the Delta Lloyd
24 policy holders that are on the Dutch internet and
25 on your internet site.

0076

1 MR. COOPERSMITH: Have you done so,
2 that is publicizing the policies with respect to
3 any other company other than the Dutch ones that
4 CGU owns?

5 MR. SINGER: Other than what we have
6 filed with the State of Washington, New York and
7 Florida, we have not done so in any other method.

8 MR. COOPERSMITH: Just to make sure we
9 understand your testimony, Mr. Singer, that means
10 that you are not going to wait for the entire
11 review process to be concluded, you're going to
12 publicize these unclaimed policies as they
13 arrive, correct?

14 MR. SINGER: Yes, as we are able to
15 develop that there are unpaid Holocaust claims.

16 MR. COOPERSMITH: And the "we" to which
17 you refer is both the company and the auditor?
18 MR. SINGER: That's correct.
19 MR. COOPERSMITH: Is the auditor making
20 a report of its findings?
21 MR. SINGER: Yes.
22 MR. COOPERSMITH: When is that report
23 going to be done?
24 MR. SINGER: I have an interim report I
25 can get to you within days.

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1 MR. COOPERSMITH: Great, and what does
2 that interim report cover?
3 MR. SINGER: The auditor has taken the
4 five ICHEIC, International Commission on
5 Holocaust Era Insurance Claim standards and
6 audited as to whether they are complete, whether
7 they have found the archives, whether they have
8 secured the archives or they have determined
9 what's in them, whether they have listed the
10 policies, and I forget the fifth.
11 MR. COOPERSMITH: When is the full
12 report due?
13 MR. SINGER: It will be an ongoing
14 process until all the ICHEIC standards are
15 completed.
16 MR. COOPERSMITH: And will each of the
17 reports be turned over promptly to the Office of
18 the Insurance Commissioner as well?
19 MR. SINGER: Yes.
20 MR. COOPERSMITH: And you will then
21 follow up with that to turn over the interim
22 report?

23 MR. SINGER: I will.

24 MR. COOPERSMITH: Are there any other
25 reports that the auditors have made or are

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1 expected to make that we should be aware of?

2 MR. SINGER: No, not that I am aware
3 of.

4 MR. COOPERSMITH: Can you tell us how
5 many claims have been paid thus far as a result
6 of this process?

7 MR. SINGER: Recently and it's in
8 material filed with you late last year, I believe
9 Berlinische Leben paid three claims, one claim --
10 paid three.

11 Another one, the claimant who's been
12 identified wants to wait and see what the German
13 government reparations agreement is and I guess
14 weigh that against accepting payment from the
15 company, and there is one under investigation.

16 The Dutch I believe have three they are
17 trying to find the evidence of the policy at the
18 moment.

19 MR. COOPERSMITH: Mr. Singer, again
20 referring to your March 23 correspondence, you
21 mentioned that there were East Germany policy
22 holders.

23 MR. SINGER: Right.

24 MR. COOPERSMITH: Of which 63 were
25 identified as Jewish, how did you identify them

0079

1 as such?

2 MR. SINGER: Just a guess, we looked at

3 names, the German company did it. In one or two
4 cases the person was identified as a rabbi, in
5 other cases they thought they were Jewish names.
6 They went through and they were able to establish
7 that most of them were paid. But that archive of
8 9,000 policies is by far the most complete one we
9 found, I think it was maintained because East
10 Germany was cut off from West Germany.

11 MR. COOPERSMITH: But there were 9,000
12 -- I mean 3,937 files that might in fact be
13 Jewish, but you don't know?

14 MR. SINGER: We don't know, we are
15 putting that into the automated database also.
16 When it's compared with the various Holocaust
17 lists we have described, it is certainly
18 conceivable that another name will turn up.

19 MR. COOPERSMITH: So at this point you
20 don't know anything about whether the remaining
21 9,000-plus policy holders are potential Holocaust
22 victims or not, the claims are potential
23 Holocaust victims heirs or not, you don't know?

24 MR. SINGER: I don't know if that is
25 totally true because a lot of the policies they

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1 looked at and found when they were paid, so I
2 don't know if it's accurate to say we know
3 nothing about them. But clearly there is a
4 difficult process in sorting through thousands
5 and thousands of records and trying to find out
6 which were Holocaust victims and that's the
7 process we're engaged in.

8 MR. COOPERSMITH: What criteria have
9 you used to determine what constitutes an unpaid

10 claim? Did that include confiscated claims?

11 MR. SINGER: We don't have -- certainly
12 if it was confiscated, it wasn't paid.

13 MR. COOPERSMITH: So if it was
14 confiscated it was unpaid?

15 MR. SINGER: Correct.

16 MR. COOPERSMITH: What other criteria
17 are there that you use to determine what
18 constitutes an unpaid claim?

19 MR. SINGER: We would use the same
20 standard as the International Commission uses.

21 MR. COOPERSMITH: And you mentioned in
22 your letter that there were 63 files of which all
23 but seven appear to be cleared out and then you
24 say that six of the seven claims could not be
25 located. That's a quote. What efforts were made

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1 to locate the seven claims, were they published
2 on the internet?

3 MR. SINGER: I do not believe those --
4 I think it's six, is it seven?

5 MR. COOPERSMITH: Six of the seven
6 could not be located.

7 MR. SINGER: I believe it's six. I
8 believe they have not been as yet but they will
9 be shortly, as we begin to cull the list and try
10 to find people who are with funds.

11 MR. COOPERSMITH: What efforts have
12 been made to locate the six individuals
13 involved?

14 MR. SINGER: I am not certain but I
15 could ask the company.

16 MR. COOPERSMITH: But it would have

17 been important to publicize the names on the
18 internet, would it not, and with the relevant
19 authorities, correct?

20 MR. SINGER: We are in full agreement
21 that once we identify an unpaid unclaimed
22 Holocaust victim claim that that should be
23 publicized on the internet mostly.

24 MR. COOPERSMITH: And that will be done
25 in the case of the six claims?

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1 MR. SINGER: That's correct.

2 MR. COOPERSMITH: What impediment do
3 the German privacy laws represent to the
4 disclosure of the policies?

5 MR. SINGER: All the European country
6 privacy laws create an impediment to publicizing
7 personal data about natural persons who you can't
8 say with certainty are no longer living.
9 However, we believe that any privacy regulator in
10 Europe, if we approach them as Mr. Fischer did
11 and tell them that what we want to publicize is
12 unclaimed Holocaust policies, that they will
13 issue exemptions. I can't tell you for certain
14 they will but we believe that will happen.

15 We do know that when AEGON attempted to get
16 an exemption to comply with the Florida subpoena
17 from the Dutch regulator, the registered chamber,
18 the same person Mr. Fischer got his exemption
19 from, that the registering chamber said you can't
20 publicize every policy record that you have of
21 every kind.

22 MR. COOPERSMITH: You also heard
23 Mr. Fischer testify that he personally became

24 involved in the process and at his initiative
25 representing the Dutch Insurance Association he

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1 went and sought the exemption from the Dutch
2 authorities. Has CGU at its initiative sought an
3 exemption from the privacy laws of the relevant
4 French and German authorities?

5 MR. SINGER: No, because we don't have
6 a list and we can't sort our list to the point
7 where we can tell them at the moment what we are
8 asking permission for, first. Secondly, we're
9 trying to cooperate with the local trade
10 associations who have more clout, frankly, in
11 dealing with the government, as Mr. Fischer has
12 more clout, but that is something we fully intend
13 to cooperate in, as we did cooperate very fully
14 in the Dutch process.

15 MR. COOPERSMITH: But how does having
16 the exact length of the list slow you down at all
17 in seeking the exemption. You know that you are
18 going to find some number of policies which have
19 been unpaid and which may in fact belong to the
20 Holocaust victims or their heirs, what would
21 prevent you from approaching the authorities now
22 and seeking the exemption knowing that whether
23 that list is 6,600 or 6,000, you are going to
24 need to have that exemption?

25 MR. SINGER: I agree with you

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1 entirely. Up until the Dutch got the exemption
2 on March 31 it was the opinion of many that the
3 EU directives and data protection laws in Europe

4 would not allow such disclosure. We were
5 heartened by the Dutch opinion which they got
6 just a month ago and we believed that other
7 regulators would follow in applying the EU
8 directive balance of interest test to give
9 similar exemptions.

10 MR. COOPERSMITH: So you can use this
11 opportunity then to tell us what CGU will be
12 doing in light of that decision?

13 MR. SINGER: Well, we will cooperate
14 with regulators and trade associations in the
15 European countries to receive the same
16 exemption. Our goal is to the extent we can to
17 identify an unclaimed Holocaust victim policy.
18 We want that released, we don't want the laws of
19 some country very far away to prohibit that.

20 MR. COOPERSMITH: Are your companies
21 going to take a passive role or an active role?
22 We appreciate the fact that you're going to
23 cooperate with the decision of the regulators.
24 The question to you is whether you are going to
25 seek a more active role by actively seeking their

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1 permission rather than just waiting for others to
2 act first and then going along with that
3 decision.

4 MR. SINGER: We won't wait for others
5 to act first, we will take an active role and we
6 have been taking an active role throughout this
7 process and want to resolve it.

8 MR. COOPERSMITH: I want to thank you
9 on behalf of the agency for that commitment.
10 Bear with me just one minute.

11 MR. SINGER: Sure.

12 MR. COOPERSMITH: I would like to ask a
13 few more questions. We certainly appreciate your
14 candor and your continuing involvement with this
15 process. Can your company confirm that it paid
16 out death benefits on policies after the war?

17 MR. SINGER: Can it confirm that it
18 paid out death benefits after the war?

19 MR. COOPERSMITH: Correct.

20 MR. SINGER: My understanding is from
21 colleagues in Europe that the redress and
22 reparations commissions in the different
23 countries after the war paid a number of claims
24 and that many of those records still exist. And
25 in many cases they are still able to go to the

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1 government agencies and determine that a record
2 was paid out. So I guess the answer is yes.

3 MR. COOPERSMITH: Can you then provide
4 the agency staff with the documentation related
5 to those claims?

6 MR. SINGER: You are referring to all
7 claims paid since World War II?

8 MR. COOPERSMITH: Let me ask Mr.
9 Stern. Let me let Mr. Kadden respond to your
10 question.

11 MR. KADDEN: In reviewing your letter
12 we saw that you differentiated between claims or
13 policies that were paid by the company directly
14 and those paid after the war by the governmental
15 authority in restitution programs. I wanted to
16 just clarify that in some cases companies paid
17 out directly, in other words, cut its own check

18 to pay certain claimants, heirs, whoever they may
19 be. There are not terrifically a high number
20 apparently.

21 Maybe what we're asking is that you could
22 provide us with some of the details of that.

23 In particular, we have a question today, if
24 you know, and that is, were any of these paid on
25 the basis of full face value worth or death

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1 benefit that was due under the factual terms,
2 those that were paid by the company directly, not
3 the reparation or not the restitution programs?

4 MR. SINGER: I can inquire as to what
5 records exist concerning that but I can't tell
6 you today what all the payment terms were after
7 the war, but I can certainly ask and see what
8 records existed then. As Mr. Fischer testified,
9 they believe that some of the claims were paid
10 out but I can't -- that's just his statement.

11 MR. KADDEN: We are talking about
12 Berlinische Leben. As I read your letter, you
13 are referring to Berlinische Leben.

14 MR. SINGER: It refers to the whole
15 group, the letter does.

16 MR. KADDEN: At the break, Mr. Singer,
17 if you can confer with the staff, there are going
18 to be some outstanding requests that we've made
19 as a result of the hearing, just to make sure
20 that we know what the expectation is and what a
21 reasonable timeline is for the production of that
22 information, I will ask if you can just stay a
23 few minutes at the break to confer with the staff
24 so that we all know what is happening.

25

MR. SINGER: Sure.

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1 MR. COOPERSMITH: Let me close with two
2 quick questions. With regard to BL, was it
3 required to submit a report on Holocaust era life
4 insurance policies to our counterparts, the
5 Germany federal insurance supervisor's office?

6 MR. SINGER: I don't know.

7 MR. COOPERSMITH: That too is a
8 question that we would like to know and Mr.
9 Kadden will furnish more details.

10 Finally, what role will the CGU companies
11 have with the International Commission, following
12 the International Commission standards, can you
13 tell us about CGU companies' relationship with
14 the International Commission and how that might
15 change?

16 MR. SINGER: I don't know for certain,
17 certainly we would like to cooperate through the
18 different European trade associations with the
19 International Commission and expect to, as we are
20 using their standards, fully cooperate with that
21 process.

22 MR. COOPERSMITH: Will you join in
23 that?

24 MR. SINGER: As I sit here today, I
25 don't know. We are certainly joining through our

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1 Dutch company through the Dutch Association of
2 Insurers. I don't know whether we will follow
3 that pattern in the future or some others.

4 MR. COOPERSMITH: Mr. Singer, we

5 certainly appreciate your time and responses to
6 our many questions. And we eagerly anticipate
7 the follow up from this hearing. Thank you so
8 much.

9 We will now take a very brief break and take
10 testimony from our final witness, American Re.

11 (Recess taken.)

12 MR. COOPERSMITH: Let's now resume. We
13 certainly appreciate everyone's patience,
14 particularly the survivors and the family members
15 who are with us today.

16 We now present the testimony of the last
17 witness who is representing American Re-Insurance
18 Company, Mr. Patrick Hughes I believe is here on
19 their behalf, is that correct?

20 MR. HUGHES: Yes.

21 MR. COOPERSMITH: Would you be so kind
22 as to identify yourself and spell your name for
23 the record and indicate what position you hold
24 with American Re-Insurance.

25 MR. HUGHES: My name is Patrick Hughes,

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1 I am associate general counsel for American
2 Re-Insurance Company.

3 MR. COOPERSMITH: Can you tell us what
4 American Re-Insurance Company is and whether it
5 has any subsidiaries or affiliates that may have
6 done business during the Holocaust era in the
7 relevant time period and relevant countries.

8 MR. HUGHES: The first question is an
9 easier question to answer. American Re is an
10 American re-insurance company formed in
11 Pennsylvania in 1917 and licensed in all 50

12 states. We are a professional reinsurer, we deal
13 almost exclusively with re-insurance business.

14 In some states where special laws such as
15 self-insurance programs allow the purchase of
16 those programs, for example, municipal liability
17 or workers compensation pools to purchase
18 insurance from a re-insurer, we participate in
19 those alternative market mechanisms otherwise
20 known as business of re-insurance.

21 We did not do even re-insurance business
22 internationally until 1948 when we issued our
23 first treaty club in South America, so we have
24 issued no policies in Europe and certainly none
25 during the Holocaust era. And neither have any

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1 of our U.S. affiliated companies.

2 We were acquired by Munich Re of Germany in
3 November of 1996, and a year following that we
4 were merged with Munich Re's three U.S. licensed
5 organizations. Actually we were merged with her
6 New York branch office, U.S. branch which was
7 formed in 1955. The operations of Munich
8 American Re-Insurance Company, a New York based,
9 U.S. licensed company formed in 1975, also was
10 merged with American Re.

11 In a separate affiliated company, Munich Re-
12 American Re-Insurance company in Atlanta,
13 Georgia, also is the last piece of the Munich Re
14 participation in the U.S. market. They were
15 formed I believe in 1959.

16 So none of the business transacted by any of
17 these U.S. based companies occurred prior to the
18 1950's and all of them are re-insurers and did

19 not issue policies. Similarly, Munich Re which
20 has been in business since 1880 is by their
21 articles of association a professional
22 re-insurance company and therefore has not issued
23 policies during its existence. And so neither
24 our parent that controls us or American Re or any
25 of its U.S. affiliated companies have ever issued

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1 policies of insurance in the Holocaust relevant
2 time period.

3 MR. COOPERSMITH: I am going to
4 speculate that Munich as Munich Re-Insurance is
5 based in Munich, correct?

6 MR. HUGHES: Correct.

7 MR. COOPERSMITH: Is American Re part
8 of the Munich Re family then?

9 MR. HUGHES: American Re is owned by
10 American Re Corporation, a U.S. holding company
11 system. Munich Re is the wholly owned
12 shareholder of American Re Corporation, so
13 indirectly.

14 MR. COOPERSMITH: So the answer is
15 yes?

16 MR. HUGHES: Yes.

17 MR. COOPERSMITH: And Munich Re owns
18 significant stakes in primary insurance companies
19 in Europe, correct?

20 MR. HUGHES: Munich Re owns a 16 plus
21 percent interest in ERGO, a holding company
22 system that holds interest in European insurance
23 companies.

24 MR. COOPERSMITH: Did these European
25 insurance companies themselves issue policies

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1 during the Holocaust era to potential Holocaust
2 victims?

3 MR. HUGHES: I know that some of them
4 did.

5 MR. COOPERSMITH: You mentioned ERGO.
6 E R G O, for the record?

7 MR. HUGHES: Yes.

8 MR. COOPERSMITH: And ERGO is a holding
9 company, correct?

10 MR. HUGHES: That's correct.

11 MR. COOPERSMITH: And among its
12 holdings is a company in English that we would
13 call Victoria?

14 MR. HUGHES: Yes, that's correct.

15 MR. COOPERSMITH: And it's full name is
16 Victoria and then -- I guess we'll use the
17 initials LA, correct?

18 MR. COOPERSMITH: So there is no other
19 Victoria to be confused with, correct?

20 MR. HUGHES: I think there are two
21 Victoria companies, a Victoria Life and a
22 Victoria preceding it.

23 MR. COOPERSMITH: Property and
24 casualty, both of which are owned by ERGO which
25 is in turn owned by Munich Re?

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1 MR. HUGHES: That's correct.

2 MR. COOPERSMITH: Mr. Hughes, you have
3 been present for the entire hearing, I believe,
4 is that correct?

5 MR. HUGHES: Yes.

6 MR. COOPERSMITH: And you have heard
7 that the agency is interested in assessing the
8 progress that companies have made in complying
9 with the Holocaust Act. And as you know, the
10 purpose of this hearing is to gather information,
11 it's a fact finding hearing. We would like to
12 know how these companies to which you just
13 referred are progressing in terms of their
14 compliance with the Washington Holocaust law.

15 MR. HUGHES: Unfortunately since
16 American Re has no management or investment
17 interest in these companies and because Munich
18 Re, our parent, does not have control over the
19 management or operation of those companies, the
20 only information that American Re is able to get
21 is in the capacity as a sort of an intermediary
22 twice removed on behalf of our U.S. regulators.

23 Stated differently, the only information we
24 can get is that information that is requested of
25 us or required by the statute and then we turn

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1 around and have Munich Re ask those companies to
2 voluntarily provide that information. Or in the
3 case of Victoria where we have had frequent
4 requests from U.S. regulators, Munich Re has
5 arranged for us to talk with the people at
6 Victoria directly.

7 So whenever we have a request for
8 information from our U.S. regulators, we will
9 contact Victoria and ask them to respond to those
10 requests, and that is the process we have been
11 following in the United States for the last nine
12 months to a year.

13 MR. COOPERSMITH: So let me try to
14 follow that lengthy answer. Are you saying, Mr.
15 Hughes, that if I owned the company I can't find
16 out information about the company?

17 MR. HUGHES: You are referring, I
18 assume, to the relationship between our parent,
19 Munich Re, and its insurance companies,
20 subsidiaries or whatever you would call it under
21 U.S. law?

22 MR. COOPERSMITH: You bet.

23 MR. HUGHES: This question was asked of
24 us both by the California regulatory authorities
25 and Pennsylvania regulatory authorities, each

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1 following a request that we do what we can to get
2 Munich Re to join the international Holocaust
3 Commission. Munich Re attempted to join the
4 International Holocaust Commission by writing to
5 Chairman Eagleburger and offered to join on terms
6 appropriate for a re-insurer that did not have
7 policies.

8 As you probably are aware, the Memorandum Of
9 Understanding of the International Holocaust
10 Commission refers to companies that issued
11 policies and also refers to various processes of
12 auditing, reviewing, adjusting and paying claims
13 arising out of those policies.

14 Munich Re believed that it would be
15 disingenuous to join the Holocaust Commission in
16 the capacity of a re-insurer without clearly
17 revealing that that was its role and that it did
18 not have the ability or power to compel any of
19 its insurance companies or affiliated companies

20 to join the Holocaust Commission.

21 The initial response from the Holocaust
22 commission was that it would not create any
23 different standards than it had for its existing
24 members.

25 MR. COOPERSMITH: And we're going to

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1 get to the International Commission process later
2 on but I would appreciate an answer to the
3 question that I asked.

4 MR. HUGHES: I was trying to lead up to
5 this of course was the first time that as an
6 American company we learned that there was a
7 nuance of German corporate law where a majority
8 shareholder did not have the ability to control
9 the management and operation of its majority
10 owned affiliated companies.

11 We conducted both with U.S. and Germany attorneys
12 an examination of the German corporate law and
13 prepared a memorandum which we have provided to
14 many states including the State of Washington. I
15 think with the law firm's opinion that this
16 memorandum is accurate and based on the facts of
17 Munich Re's relationship with Victoria, it does
18 not have the power to control the management or
19 operations or direct Victoria to produce
20 information under government law.

21 MR. COOPERSMITH: ERGO is the holding
22 company for Victoria, correct?

23 MR. HUGHES: Yes.

24 MR. COOPERSMITH: ERGO owns 90 percent
25 of Victoria, correct?

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1 MR. HUGHES: Yes.

2 MR. COOPERSMITH: Munich Re owns more
3 than half of ERGO, correct?

4 MR. HUGHES: That's correct.

5 MR. COOPERSMITH: So it's your
6 testimony that if I own more than half a company
7 and that something has a 90 percent stake in
8 another company, I don't get the information I
9 want?

10 MR. HUGHES: If you are a German --

11 MR. COOPERSMITH: Under German
12 corporate law, all right.

13 MR. HUGHES: Yes.

14 MR. COOPERSMITH: You said you
15 submitted a memorandum of law to the Office of
16 the Insurance Commissioner, correct?

17 MR. HUGHES: Yes.

18 MR. COOPERSMITH: Mr. Hughes, have you
19 submitted a certified translation of the relevant
20 German law that you are citing?

21 MR. HUGHES: To?

22 MR. COOPERSMITH: To the Office of the
23 Insurance Commissioner. You are invoking a law
24 that says that essentially you guys can't
25 cooperate fully with the Washington State law,

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1 and if you are going to invoke something like
2 that, we sure want to see what it is that you're
3 invoking. Having a memo from your lawyer is nice
4 but it's not sufficient.

5 So the question is have you submitted a
6 certified translation, in other words, a copy of

7 a translation of the applicable German law which
8 has been certified to be a true and accurate
9 translation of that law?

10 MR. HUGHES: No, we have not.

11 MR. COOPERSMITH: When can you get such
12 a certified translation to us?

13 MR. HUGHES: I don't know how long that
14 takes but I will get that as quickly as I can.

15 MR. COOPERSMITH: We appreciate that,
16 and Mr. Stern and Mr. Kadden will follow up to
17 facilitate that exchange of information.

18 So Mr. Hughes, it's sort of odd then, why
19 would you be here if you are not in a position to
20 testify as to what the German companies have or
21 have not done?

22 MR. HUGHES: I was the one that was
23 invited to attend.

24 MR. COOPERSMITH: But you were invited
25 in your representative capacity, correct? I mean

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1 we wanted a representative from -- I mean are you
2 in a position to testify as to what Munich Re and
3 Victoria have done with respect to their
4 obligation under the law?

5 MR. HUGHES: Only those things that
6 have passed through American Re.

7 MR. COOPERSMITH: Let's explore that
8 for a minute, why don't you tell us what you do
9 know.

10 MR. HUGHES: As an example, we asked
11 Munich Re to ask all of its insurance companies
12 to respond fully to the data request under
13 Washington State registry law as well as that of

14 California, and in the event that they could not
15 provide that information, explain why they could
16 not.

17 Munich Re passed that request on to all of
18 those insurance companies and each of those
19 responded. I got the German version of their
20 responses and then asked them to give us the
21 translations and when we had a full set of the
22 German responses as well as the translations I
23 sent them to Marvin Stern.

24 MR. COOPERSMITH: Why don't you tell us
25 what process has been undertaken to identify

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1 potential Holocaust claims and what has been done
2 to get those claims paid in a prompt and fair
3 fashion.

4 MR. HUGHES: I have in front of me a
5 March 6, 2000 correspondence that had arrived to
6 the State of Pennsylvania. I was reading it last
7 night trying to prepare for this and I told
8 Marvin prior to the hearing that I think it may
9 be a useful document and I will give it to you
10 when I am finished, and it outlines all of the
11 activity of Victoria and Munich Re and American
12 Re with respect to Holocaust related activities.
13 I can summarize that for you.

14 MR. COOPERSMITH: Would you, please.

15 MR. HUGHES: Victoria has advised us
16 that their attempts to handle the Holocaust era
17 claim inquiries has been hampered by a couple of
18 key situations. The first was the bombing of
19 Berlin where they had the German offices in 1945,
20 all records were destroyed. The branch offices

21 they had in eastern European countries such as
22 Hungary and Czechoslovakia were nationalized.
23 The communist governments seized the assets and
24 records. They have not had access to those
25 records since that time. In fact, eastern

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1 European officials have told Victoria that no
2 policy holder records prior to 1945 still
3 survived.

4 MR. COOPERSMITH: You say policy holder
5 records for which company?

6 MR. HUGHES: The communist country
7 nationalized branch offices of Victoria.

8 MR. COOPERSMITH: Has your company
9 submitted to this agency the locations of the
10 company's buildings that were destroyed during
11 the war?

12 MR. HUGHES: The German buildings?

13 MR. COOPERSMITH: Correct.

14 MR. HUGHES: I don't think so.

15 MR. COOPERSMITH: If you could have
16 that information submitted to us in a timely
17 fashion. So what we want is the companies have
18 stated that the records were destroyed during the
19 bombing of Berlin, we would like to know where
20 those offices were located to verify that in fact
21 they were bombed out and destroyed during the
22 bombing.

23 MR. HUGHES: So that would be the
24 location of Victoria offices that were destroyed
25 during the war bombings.

0103

1 MR. COOPERSMITH: Are there any other
2 relevant German companies in the corporate family
3 that we are discussing today? Could it be
4 Hamburg-Mannheimer or Karlsruher?

5 MR. HUGHES: I have not had
6 conversations with those other companies over the
7 past year. The only information I have from
8 those companies are their reponses to the
9 Washington State registry law. I don't recall
10 whether in of those six any of them allege that
11 the records were or were not destroyed.

12 MR. STERN: One company does specify
13 and it does give us precise locations.

14 MR. HUGHES: What?

15 MR. STERN: One company does.

16 MR. COOPERSMITH: Let's make it easy on
17 ourselves. Whenever there is an assertive
18 defense, be it because there is German
19 corporation law or because records have allegedly
20 been destroyed, we need a means to verify that.

21 We obviously appreciate the company's work
22 but it's our obligation to ensure that that is in
23 fact what happened.

24 So there are a number of companies involved,
25 of the three that I just mentioned in addition to

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1 ERGO and then we put the obligation on you to
2 identify any other records that might have been
3 destroyed.

4 MR. HUGHES: Okay.

5 MR. COOPERSMITH: Then you mentioned
6 the seizure or nationalization by the communists,
7 is that correct?

8 MR. HUGHES: Yes.

9 MR. COOPERSMITH: How did that affect
10 your records and ability to pay out the Holocaust
11 claims?

12 MR. HUGHES: Victoria has advised us
13 that it has from time to time received inquiries
14 from you as regulators with respect to claimants
15 and to the extent it could identify those policy
16 numbers as falling within that portfolio that
17 would have been issued by those.

18 There are branches that were nationalized
19 and had attempted to find out whether or not any
20 additional information was available from those
21 companies and had reported to us that eastern
22 European officials had told Victoria no policies
23 for the record prior to 1945 still survived.

24 MR. COOPERSMITH: So you have a record
25 of what those policies are then?

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1 MR. HUGHES: I don't know how they
2 determined where the portfolios of policies were
3 written.

4 MR. COOPERSMITH: So then we will need
5 to know what process they used to identify the
6 records and what policies they were.

7 And is it your position that any policies
8 that were nationalized by the communists are now
9 no longer payable to those Holocaust victims or
10 their heirs?

11 MR. HUGHES: I am not sure I understand
12 your question.

13 MR. COOPERSMITH: Is it your testimony
14 that any policies that were seized and

15 nationalized by the communists are no longer
16 payable to Holocaust victims or their heirs, by
17 Victoria or the other companies within the Munich
18 Re's family?

19 MR. HUGHES: Victoria has told us that
20 it is their position that -- Victoria has stated
21 that as its established policy that any Holocaust
22 era claim inquiry involving Victoria should be
23 fully investigated and every reasonable effort
24 should be made to determine whether or not the
25 claim is valid and unpaid and that any claim

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1 determined to be valid and unpaid should be
2 promptly paid.

3 It is also Victoria's policy that the
4 validity of the claim should be determined
5 without regard to any applicable statute of
6 limitations or other procedural defect and
7 without regard to a lack of policy documents or
8 policy information, if adequate reasonable
9 evidence of the existence and validity of such
10 claim can otherwise be established.

11 So Victoria has told us that is the policy,
12 that is the policy of that entire system.

13 MR. COOPERSMITH: So is the
14 nationalization of insurance assets, is it or
15 isn't it relevant to whether or not these
16 companies would pay a Holocaust claim?

17 MR. HUGHES: I would have to ask that
18 of the management of each of the companies.

19 MR. COOPERSMITH: Okay, we would like
20 that in writing.

21 MR. HUGHES: And that question is if

22 they can establish that there is a claim under a
23 policy that has been nationalized, will they pay
24 that?

25 MR. COOPERSMITH: Regardless of --

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1 MR. HUGHES: The fact of
2 nationalization.

3 MR. COOPERSMITH: Exactly.

4 Now are you aware of a recent agreement
5 among German industries, Jewish organizations and
6 German-U.S. government establishing a claims and
7 compensation fund?

8 MR. HUGHES: Sure, can I go back to the
9 question?

10 MR. COOPERSMITH: Sure.

11 MR. HUGHES: Victoria, I earlier had
12 said that the bombing had destroyed. I meant to
13 say all policy records have been destroyed.

14 MR. COOPERSMITH: You wanted to clarify
15 your previous testimony.

16 MR. HUGHES: I think some officers may
17 have had ledgers that did not contain policy
18 information or there may have been annual reports
19 that had been submitted elsewhere. So after the
20 war there were a couple of efforts to recreate
21 the records of the company that had been
22 destroyed and one was in 1948, the German
23 government published notice to all policy holders
24 and insurers urging policy holders to contact
25 their insurers and provide information on the

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1 policies. As a result, Germany insurers were

2 able to reconstruct some of those records and pay
3 claims on those records.

4 Later in 1956 pursuant to the restitution
5 and reparation programs, again the German
6 government looked to the insurance industry to
7 try to develop additional policy information that
8 could be used in the reparation programs. So
9 there has been a process of trying to reconstruct
10 the records that had been destroyed, I just
11 wanted to clarify that.

12 MR. COOPERSMITH: Regarding the
13 agreement with the German insurance industry and
14 U.S. Government with respect to claims and
15 compensation fund, we've all been aware of the
16 insurance policies.

17 MR. HUGHES: Yes, I would refer to it
18 as the German foundation initiative or the
19 initiative. I am not an expert in it and I
20 certainly have not been very close in
21 negotiations at all, I know what I have read in
22 the papers or what I have been told by Munich Re
23 as to the progress of those discussions.

24 MR. COOPERSMITH: Are you talking about
25 Munich Re or any of its related companies are

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1 participants in that initiative issue?

2 MR. HUGHES: Yes. As a matter of fact,
3 I have here and will give to you a translation of
4 the German announcement of the associations, the
5 announcement that they would be participating or
6 they would be appealing to all the executive
7 board and the general committee of the
8 Association of German Insurance Companies have

9 unanimously appealed to the 463 insurance
10 companies affiliated with the GDE to join the
11 Foundation Initiative and participate in the
12 solidarity campaign initiated by the German
13 enterprises.

14 It goes on to describe that they will be
15 providing 500 million Deutsch Mark and that the
16 reason for this is the attempt to compensate
17 victims of forced labor and to make financial
18 amends to the survivors of the Holocaust for the
19 suffering and injustice justice inflicted on them
20 and to support the humanitarian issues and
21 responsibility which the insurance industry
22 shares with all sectors of the society.

23 It doesn't discuss in detail but its
24 intention is to transfer the 500 million Deutsch
25 Marks to the International Holocaust Commission for

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1 the payment of insurance claims and then for any
2 other humanitarian purposes that the Holocaust
3 Commission deems appropriate.

4 This notice, this was a press release of the
5 Germany Insurance Association. It then appealed
6 to each of its members to validate that decision
7 and participate in the initiative.

8 I have been advised as early as today that
9 German, Munich Re issued in Germany its notice to
10 the Association that it would participate. My
11 understanding is that the 500 million Deutsch
12 Marks will be divided on a market share basis.

13 MR. COOPERSMITH: So how much of that
14 was Munich Re's share?

15 MR. HUGHES: I don't know what that

16 specific amount is but I know they have a very
17 large share of the market and therefore they will
18 be paying a very large share of this 500 million
19 Deutsch Marks.

20 Munich Re has said that it will participate,
21 and if it participates then its insurance
22 subsidiaries that it does not control also will
23 be acceding to the request of this Association.
24 That has not happened yet but it is expected to
25 happen shortly. We are awaiting the translation

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1 of Munich Re's response that it would accede to
2 that participation and initiative, and as soon as
3 I get that I will provide that translation.

4 MR. COOPERSMITH: How many companies
5 would be involved?

6 MR. HUGHES: There are 463 insurance
7 companies --

8 MR. COOPERSMITH: I am only interested
9 in the ones related to Munich Re.

10 MR. HUGHES: I hesitate because I am
11 aware that the six that are anticipated to join
12 through the ERGO participation, I don't know
13 whether Munich Re may have other associated
14 re-insurance companies that it does control, but
15 everyone under its corporate controlled umbrella
16 that is an insurance company in Germany will
17 participate, that has been acceded to already.
18 And I believe that when ERGO accedes to this
19 recommendation then all of the non-controlled
20 insurance companies will also be participating.

21 MR. COOPERSMITH: Whenever the ultimate
22 shares of those companies, the related companies

23 contribute to this fund, will that represent the
24 entire amount of money that the companies intend
25 to pay out as its obligation for unpaid Holocaust

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1 insurance claims?

2 MR. HUGHES: I can only say that that
3 is my understanding of how their participation in
4 the initiative would work.

5 MR. COOPERSMITH: You mentioned
6 previously that there was some post war
7 compensation paid out by these companies,
8 correct?

9 MR. HUGHES: In the reparation
10 programs?

11 MR. COOPERSMITH: Yes.

12 MR. HUGHES: Yes.

13 MR. COOPERSMITH: Are you familiar with
14 how many policies were involved that are either
15 Munich Re policies or affiliated?

16 MR. HUGHES: Well, Munich Re had no
17 policies it issued.

18 MR. COOPERSMITH: Well, let's just use
19 Munich Re as shorthand, Munich Re companies.

20 MR. HUGHES: Insurance companies.

21 MR. COOPERSMITH: Yes.

22 MR. HUGHES: No, I don't.

23 MR. COOPERSMITH: And you will provide
24 that information as well?

25 MR. HUGHES: Yes.

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1 MR. COOPERSMITH: And the number of
2 policies --

3 MR. HUGHES: And the number of claims
4 paid by the Munich Re-Insurance companies through
5 the reparation program?

6 MR. COOPERSMITH: Correct, and what the
7 face value was of those policies as well as the
8 actual payment made, and of course the process by
9 which that was done. Was it done on the basis of
10 government records, company records, government
11 accords, external standards, whatever the process
12 was.

13 MR. HUGHES: So you are asking both on
14 what basis was the claim term valid as well as on
15 the value determined?

16 MR. COOPERSMITH: Correct.

17 Mr. Hughes, let's turn our attention to what
18 steps, if any, the Munich Re company has taken to
19 carry out claims that it knows it has or
20 potentially has with respect to Holocaust victims
21 or their heirs, what have they done? The other
22 companies described at length their process, what
23 have Munich Re companies done?

24 MR. HUGHES: I cannot explain at length
25 what the processes are because it's not a

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1 subsidiary that we control and direct.

2 MR. COOPERSMITH: We are not asking you
3 to direct it at this point but we are asking you
4 to describe what steps they take.

5 MR. HUGHES: I can only tell you what
6 they have told us. What surviving documentation
7 pertaining to business before 1945 to review and
8 analyze, to build a database from available
9 information and to research or respond to all

10 insurance in this era. Whenever a new claim is
11 received Victoria searches its database and
12 responds to the inquiry with the result of the
13 search.

14 If the database search yields no
15 information, Victoria with the inquirer's consent
16 contacts the various restitution archives to
17 determine whether any insurance identified by the
18 inquirer is subject to the restitution program
19 and furnishes the inquirer with written response,
20 including copies of any records under cover.

21 MR. COOPERSMITH: Other than that
22 process, have any claimants been paid to date?

23 MR. HUGHES: I don't know.

24 MR. COOPERSMITH: Have any potential
25 claimants been identified?

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1 MR. HUGHES: Have any potential
2 claimants been identified?

3 MR. COOPERSMITH: Right.

4 MR. HUGHES: I know from working with
5 the California insurance department that they
6 have transmitted directly and have been
7 corresponding directly with Victoria on about the
8 last I knew about 20 inquiries that had been
9 filed with the California insurance department.

10 New York recently advised American Re that
11 it had -- I am drawing a blank on the number but
12 I think it was a thousand inquiries worth a
13 million and a half, something like that. And
14 when we asked New York if they would provide us
15 with the detailed information, they provided us
16 with a list of the insureds.

17 The Department of Insurance had provided us
18 with a list of the claimants' names, the
19 insureds' names and in some cases a policy
20 number, and I think that was all.

21 MR. COOPERSMITH: Mr. Hughes, frankly,
22 I am less interested in what the insurance
23 department has done to bring the policies to your
24 attention as I am with what your companies have
25 done to bring these potential policies to the

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1 attention of the potential claimants.

2 You heard earlier today from the survivors
3 themselves that they were very young at the time,
4 and given their culture and given their name that
5 they weren't aware of what insurance was provided
6 by their families but they were confident that
7 such insurance existed.

8 I think it's clear that without disclosure
9 of the policy and the policy holder name that
10 there is no way that potential claimants will
11 know if they have a claim against these
12 companies.

13 So the question is what affirmative steps
14 have the Munich Re-Insurance companies taken to
15 get those unpaid Holocaust insurance out in the
16 public domain?

17 MR. HUGHES: I thought I responded to
18 that earlier when you asked about what claims
19 I am aware of. And the only ones I am aware of
20 are 25 in California which have been provided to
21 us only under seal and we are not allowed to give
22 them to anyone other than the insurance
23 regulator.

24 And then when I contacted New York about
25 their claims so that I could see whether Victoria

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1 had them and was researching them, New York told
2 us that they couldn't give us the information
3 because Victoria already had it.

4 MR. COOPERSMITH: Tell us what
5 standards you are using to identify such
6 potential claims, are you now using the
7 International Commission standards?

8 MR. HUGHES: American Re has never
9 issued any policies.

10 MR. COOPERSMITH: I understand, that's
11 in the record. We're not waiving anything by
12 discussing the Munich Re-Insurance companies'
13 standards.

14 MR. HUGHES: I don't know what the
15 Victoria companies or any companies that are not
16 controlled by American Re or Munich Re are doing
17 with respect to their claims, except for the
18 information that they have given to me which I am
19 passing to you now.

20 MR. COOPERSMITH: Do you believe the
21 Munich Re-Insurance companies are in fact in
22 compliance with Washington's Holocaust law?

23 MR. HUGHES: They have not agreed to
24 provide the information required under the
25 Holocaust law and they said that they cannot

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1 under their data privacy law. Whether or not
2 they would have any other reasons, I don't know.

3 MR. COOPERSMITH: So the testimony is

4 that the companies are not in compliance with the
5 Holocaust law?

6 MR. HUGHES: We have asked them to
7 provide that information and they have said that
8 they could not. Some of the other companies have
9 simply said they have no claims or they have no
10 records. I have provided all those responses to
11 the state.

12 MR. COOPERSMITH: Why don't you tell us
13 about this matter of German corporate law, you
14 have already promised to provide us certified
15 translation of it. You stated that simply
16 because a company has majority interest in
17 another company, under Germany corporate law that
18 doesn't mean that the majority owner has control
19 over the subsidiary, correct?

20 MR. HUGHES: Yes.

21 MR. COOPERSMITH: What does it mean to
22 have a holding company, what control is there
23 that the holding company possesses over the
24 holders themselves?

25 MR. HUGHES: In the United States the

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1 majority shareholders would elect the board of
2 directors and the board of directors would
3 appoint the management and could direct the
4 management of the company to do whatever
5 operationally the board of directors wanted them
6 to do and could remove them at will if they did
7 not do so.

8 In Germany there is instead a supervisory
9 board which is composed of, half of it is elected
10 by the employees of the company and not the

11 shareholders at all. So the shareholders only
12 elect half of the supervisory board. That
13 supervisory board appoints the board of
14 management that is responsible for the direct
15 management of the operations of the management.

16 Under the law the supervisory board is
17 prohibited from interfering with the management
18 of the company for the management, the law
19 expressly provides that only the management board
20 and not the supervisory board can make management
21 decisions and that people who run the supervisory
22 board cannot be on the board of management.

23 There is a 20 person supervisory board of
24 ERGO, Munich Re has two representatives on that
25 20 person supervisory board. They have no one on

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1 the board of management of ERGO. With respect to
2 Victoria, they have one person on the 12 person
3 supervisory boards of both life and Victoria
4 life, and no one on the board of management.
5 Under German law, for whatever reasons, they have
6 evolved a system where the supervisory board
7 cannot be involved in the management decisions
8 and operations.

9 MR. COOPERSMITH: So the management
10 board is answerable to whom?

11 MR. HUGHES: It's answerable ultimately
12 to the shareholders at a shareholders meeting.

13 MR. COOPERSMITH: If a company owns
14 more than half of these shares, wouldn't you
15 think that the management should be aware of what
16 the controlling party wants? I mean it must not
17 be a revelation to the companies that they have a

18 majority owner. I mean there are some monkeys
19 but then there's a big gorrilla, right?
20 MR. HUGHES: The law in Germany makes
21 it very clear that the shareholders or the
22 members of the supervisory board can have
23 significant liabilities if they interfere with
24 the management and the operation of the company,
25 it was designed that way.

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1 MR. COOPERSMITH: You heard the
2 testimony about BL, correct?
3 MR. HUGHES: Correct.
4 MR. COOPERSMITH: Is BL subject to the
5 same laws?
6 MR. HUGHES: Yes, sir.
7 MR. COOPERSMITH: BL is the Berlinische
8 Leben -- I won't insult the Germany language, but
9 Berlinische Leben. That company is subject to
10 the same corporation laws that Munich Re is
11 subject to, are they not?
12 MR. HUGHES: Yes.
13 MR. COOPERSMITH: And yet Mr. Singer
14 was able to testify in some detail as to what
15 steps the company had already taken and what
16 steps it's prepared to take to come into
17 compliance with Washington law. The Munich
18 Re-Insurance company is not prepared to make that
19 same level of commitment?
20 MR. HUGHES: Munich Re does not have
21 the local power to direct or control the
22 operation of those insurance companies.
23 MR. COOPERSMITH: Are you aware of
24 whether the Munich Re-Insurance companies have

25 provided an outside auditor to review what steps

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1 have been taken to evaluate Holocaust claims?

2 MR. HUGHES: Munich Re hasn't issued
3 any policies --

4 MR. COOPERSMITH: I'm talking about the
5 insurance company, Munich Re as a shorthand for
6 Victoria, ERGO and any other companies within its
7 corporate family.

8 MR. HUGHES: That is not a decision
9 that could be made by Munich Re, that would be
10 something that the management boards of ERGO and
11 Victoria companies would have to be involved in
12 and I am unaware of them conducting any such
13 audits.

14 However they have advised us, they being
15 Victoria, that during 1998 and early '99 the BAV,
16 which is the German regulatory insurance
17 authority, conducted onsite examinations of many
18 German life insurers, including Victoria,
19 regarding Holocaust era insurance business. The
20 BAV's purpose was to obtain an overview of the
21 documents and policies from the Holocaust era and
22 define how the insurer reviewed the inquiries and
23 possible claims made by Holocaust victims and
24 their heirs.

25 The BAV published in the July 1999 issue of its

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1 publication, which I cannot say but there are
2 three words and each of them have at least six
3 syllables, the BAV report, a notice of the
4 objectives and findings and conclusions with

5 respect to the examination. The BAV concluded
6 that there were no facts giving rise to the
7 complaints regarding the insurers, including
8 Victoria's action concerning Holocaust insurance
9 policies.

10 MR. COOPERSMITH: And the BAV is the
11 German regulator of insurance?

12 MR. HUGHES: Correct.

13 MR. COOPERSMITH: Is it your testimony
14 that Victoria cooperated fully with that?

15 MR. HUGHES: To my knowledge.

16 MR. COOPERSMITH: And you are required
17 to submit a report on Holocaust era claims,
18 correct, or policies to that entity, correct? In
19 January of 1999 the German federal insurance
20 regulator required that companies submit a report
21 about its Holocaust era life insurance policies,
22 did it not?

23 MR. HUGHES: No, the regulatory
24 authorities came into the companies and did an
25 onsite examination of the books and records to

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1 determine whether or not they were properly
2 handling Holocaust era policies and claims. Then
3 after that onsite examination, came out with this
4 report.

5 MR. COOPERSMITH: And has a copy of
6 that report been provided to the Washington State
7 Commissioner?

8 MR. HUGHES: No.

9 MR. COOPERSMITH: Will you do that?

10 MR. HUGHES: I will do that.

11 MR. COOPERSMITH: Great, again with a

12 certified translation.

13 If there is any information in that report
14 -- strike that.

15 MR. KADDEN: In essence we are seeking
16 information contained in the files of the various
17 companies that we have been talking about and in
18 whatever form could be worked out with the proper
19 agreements between our I guess agency and the
20 source. And I will leave to counsel how
21 precisely that can be framed.

22 But if the actual form of the report that
23 we've been discussing is somehow unavailable and
24 what we are seeking is from the companies
25 involved to provide essential information that

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1 may be contained in that report but in
2 alternative form so that we can get an idea of
3 what the searches of the files have yielded, what
4 types of policies remain in question or have
5 been resolved using the various criteria
6 established in Germany, so in whatever form that
7 can be worked out.

8 MR. HUGHES: I would like to make you
9 aware of an offer that the Victoria company had
10 made to the California Insurance Department.
11 California had an issue administrative
12 proceedings involving American Re which they have
13 characterized as fact finding into Holocaust era
14 claims within our system, that being defined as
15 being the basis for that. There was a
16 stipulation entered and there was some
17 misperception on the part of the parties as to
18 what would be provided in terms of Holocaust era

19 policy information.

20 As a result Victoria offered to the
21 California Department to have department
22 officials come to Dusseldorf and in the presence
23 of both company officials that had been familiar
24 with the claims and information that had been
25 reconstructed after the war, the claims that had

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1 come in since that time and how they had handled
2 claims in Victoria, to meet with that group as
3 well as an insurance regulatory official and
4 review their policy related documents.

5 I note that in the letter that they provided
6 in response to our request in response to the
7 Washington statute, they have indicated that,
8 moreover you know the frame work and conditions
9 at which we are prepared to let their parties
10 inspect those files. In this context we have
11 offered to examine inquiries submitted to the
12 supervisory authority of California and then to
13 verify Victoria's reply on the basis of our
14 archive material on the spot here in Dusseldorf,
15 together with the representative of insurance
16 supervisory authority of California and in the
17 presence of a representative of the BAV.

18 MR. COOPERSMITH: So is Victoria
19 prepared to extend the same offer to Washington
20 State's Office and subject of course to mutually
21 acceptable terms of inspection?

22 MR. HUGHES: I don't know but I will
23 ask them that.

24 MR. COOPERSMITH: It's clear to me that
25 we need to meet directly with Victoria officials.

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1 MR. HUGHES: That may be the most
2 efficient and effective way.

3 MR. COOPERSMITH: Can you tell us then,
4 you have already discussed the Munich
5 Re-Insurance companies' willingness to contribute
6 to this fund, consistent with its market share as
7 determined by that fund, correct?

8 MR. HUGHES: Correct, yes.

9 MR. COOPERSMITH: What else is it
10 willing to do with respect to the International
11 Commission process? Are the Munich Re-Insurance
12 companies willing to join the International
13 Commission?

14 MR. HUGHES: I don't know what the
15 answer to that is. I know that, as I said
16 earlier, Munich had offered to join on terms
17 specific to a re-insurer, that was rejected.
18 They later offered to join again on some terms,
19 but did not define and ask for dialogue, and we
20 agreed we never got a response from the
21 Commission.

22 MR. COOPERSMITH: How long ago was
23 that?

24 MR. HUGHES: I am guessing November,
25 December.

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1 MR. COOPERSMITH: Has there been any
2 subsequent communication between then?

3 MR. HUGHES: Not that I am aware of,
4 but I was heartened to hear, I heard an earlier
5 testimony, I think it was the Dutch Trade

6 Association had been negotiating its involvement
7 with the Holocaust Commission on behalf of their
8 members, and the thought crossed my mind that
9 maybe the Association that seemed to be the
10 negotiating vehicle for participation in the
11 initiative, at least in terms of the legal peace
12 issue and financial issue, maybe they will have
13 similar discussions with the Holocaust Commission
14 to come to -- I know that the intention of the
15 initiative is the money raised from the German
16 insurance industry will be given to the Holocaust
17 Commission for the payment of claims or for use
18 of other humanitarian reasons in the discretion
19 of the Holocaust Commission.

20 I assume there will be a process for the
21 German companies to work with the Holocaust
22 Commission on the claims issue, or I don't know
23 how else it can be affected, but I don't know
24 where the discussions or negotiations are going
25 or whether they are going.

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1 MR. COOPERSMITH: Mr. Hughes, you heard
2 the earlier testimony with regard to privacy
3 laws, from both those gentlemen that such privacy
4 laws should not be an impediment to the
5 disclosure of unpaid Holocaust insurance claims,
6 and Dr. Fischer has already secured an exemption
7 and Mr. Singer is actively seeking an exemption
8 for the companies that he represents. What is
9 Munich Re's position with respect to the privacy
10 law?

11 MR. HUGHES: I think at least two and
12 possibly more of the responses from the ERGO

13 insurance companies, they stated that they had
14 contacted the BAV insurance regulators and they
15 said that provision of the information required
16 under the Washington statute would violate the
17 privacy law. They went on to specify they had
18 only gotten these responses verbally and that
19 they were asking the BAV for a written
20 confirmation of that.

21 We have not as yet received that but again I
22 will put that on my list and make sure that we
23 get that. But so far we are being told by at
24 least a couple of them, I don't recall exactly
25 the number, that they had asked the regulator

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1 whether or not they could turn over this
2 information and they have been told no.

3 MR. COOPERSMITH: That's a very
4 different approach then than the one that Mr.
5 Singer's companies are willing to take and the
6 one that the Dutch Association has already taken,
7 it's a disappointing response. You would think
8 you would want to join with your colleagues in
9 the industry to actively seek such an exemption
10 rather than take such a passive role.

11 MR. HUGHES: Well, I think that with
12 all due respect, these are the companies in their
13 country that are asking their regulators for a
14 determination of their law. I am not sure that a
15 request from American Re, a U.S. company to
16 German regulators about how their laws will
17 affect companies that we have no management
18 relationship with, any investment relationship
19 with and certainly no control over, how those

20 should be applied to those companies.

21 MR. COOPERSMITH: How about if the
22 request comes from Munich Re? As you testified
23 earlier, they had a significant market share
24 during the relevant time, perhaps it's at least
25 fair to say amongst the largest of the market

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1 share, that a particular request comes from a
2 company significant to the regulator would in
3 fact have a great deal of influence.

4 MR. HUGHES: I would be happy to ask
5 Munich Re to ask the regulators but do want to
6 emphasize that sometimes Munich Re and all the
7 companies are affected by your law and have the
8 policies. Munich Re doesn't have policies and
9 therefore asking the regulator as to whether or
10 not it can disclose information under its privacy
11 law would affect those policies when it hasn't
12 issued any, but the companies that did write the
13 policies are asking the regulator whether or not
14 they could turn this information over to U.S.
15 regulators.

16 MR. COOPERSMITH: There is a world of
17 difference between simply asking for confirmation
18 that a company can't disclose to the position
19 that the Dutch insurance agency and BL and others
20 have taken and are willing to take, which would
21 be to actively seek the exemption to say that
22 such is in the interest of the industry and the
23 country and the victims and their heirs who have
24 gone without any justice. And we are asking you
25 today whether Munich Re is willing to make such a

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1 commitment.

2 MR. HUGHES: I will ask them.

3 MR. COOPERSMITH: Let me have

4 Mr. Kadden ask a question at this time.

5 MR. KADDEN: I have a question

6 regarding Munich Re and its operation as a

7 re-insurer. In your knowledge, does Munich Re

8 have records or contracts or treaties that

9 covered this period of time, the Holocaust era,

10 and have they been investigated to ascertain data

11 on individual Holocaust policies which are

12 commonly reported to re-insurers under

13 arrangements made between the re-insurers and the

14 direct insurers.

15 MR. HUGHES: To answer your first

16 question, yes, they do have those agreements and

17 in fact have submitted them to the California

18 Insurance Department.

19 MR. KADDEN: Would you be in a position

20 to arrange for those to be shared with our

21 agency?

22 MR. HUGHES: I will ask Munich Re if I

23 can get the treaties from California and provide

24 them to Washington.

25 MR. KADDEN: And the other re-insurance

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1 materials that would be helpful in determining

2 the individual policies that are in question

3 here, not simply what was given to California,

4 although I am sure that was very thoughtfully

5 done, but are there any others?

6 MR. COOPERSMITH: Mr. Hughes, as we

7 indicated with our previous witnesses, there are
8 a number of outstanding information requests and
9 we are going to have Mr. Kadden and Mr. Stern
10 speak directly to you afterwards to make sure
11 that you folks are aware of what is expected by
12 what dates so, if you don't mind waiting a few
13 minutes after your testimony is concluded we
14 would discuss this.

15 MR. HUGHES: Yes.

16 MR. COOPERSMITH: Let me ask you a
17 clarification with regard to the matter of German
18 privacy law and its application here. When
19 Munich Re's companies made inquiries of the
20 German regulator, did those Munich Re companies
21 ask about disclosure of policies for people known
22 to be living or for deceased?

23 MR. HUGHES: I really don't know what
24 they specifically asked for but I believe that
25 what they asked for is whether the information

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1 required to be filed in Washington under your
2 registry law would be provided.

3 MR. COOPERSMITH: We'll need a firm
4 answer to that question as well.

5 You read from a statement that you offered
6 to be included in the record was a statement
7 prepared by Victoria for the California Insurance
8 Department, is that correct?

9 MR. HUGHES: No, actually this was a
10 response prepared by American Re to the
11 Pennsylvania State Insurance Department with respect
12 to the filing in that state.

13 MR. COOPERSMITH: But it was on behalf

14 of Victoria and addressed the issue of Victoria's
15 obligations with respect to Holocaust claims,
16 correct?

17 MR. HUGHES: Yes, they wanted
18 information as you have asked, what is Victoria
19 doing about this.

20 MR. COOPERSMITH: It sounded as if
21 Victoria was fully committed to paying any
22 Holocaust insurance claim, is that correct?

23 MR. HUGHES: Any valid claim.

24 MR. COOPERSMITH: Any valid claim. All
25 right. The agency is aware of at least seven

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1 potential claims against Victoria, those names
2 are here in our possession, we will turn that
3 claim information over to you and we want a very
4 prompt response on whether these claims will be
5 honored and exactly what will be paid, how much,
6 when, and if the claim won't be honored, the
7 precise basis for that position. Is that
8 agreeable to you, Mr. Hughes?

9 MR. HUGHES: I certainly will pass
10 along to this company, Victoria, all the
11 information requested that they give you,
12 everything that you are asking for. I can't give
13 you assurances on time frame, I will ask them how
14 quickly they can get these things turned out.

15 MR. COOPERSMITH: But you can give us
16 the assurance that the other representatives will
17 cooperate fully with the agency, correct?

18 MR. HUGHES: Correct.

19 MR. COOPERSMITH: That concludes the
20 proceeding. Thank you very much for your

21 testimony.

22 MR. KREGER: Just for the record, the
23 Dutch policy law, not unpaid policies. I think
24 Doctor Fischer indicated that it was just
25 unclaimed policies that have been identified.

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1 (Hearing concluded at 4:40 p.m.)

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C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, LORI WALTERS, the undersigned Notary
Public do hereby certify:

That the transcript hereto annexed was given
before me and stenographically recorded at the
time and place indicated in said transcript
consisting of pages 1 through 137.

I further certify that the foregoing
transcript contains, to the best of my knowledge
and belief, a full, true and accurate record of
all of the testimony and all of the proceedings
given and occurring at said time and place.

DATED at Woodinville, Washington, ____ day
of _____, 2000.

LORI WALTERS
Court Reporter and Notary Public

Lori J. Walters, CSR
Court Reporter